

Middlesex University Research Repository

An open access repository of

Middlesex University research

<http://eprints.mdx.ac.uk>

James, Philip ORCID logoORCID: <https://orcid.org/0000-0002-1500-9468>, Miles, Lilian ORCID logoORCID: <https://orcid.org/0000-0001-7224-757X>, Croucher, Richard ORCID logoORCID: <https://orcid.org/0000-0002-9617-734X> and Houssart, Mark ORCID logoORCID: <https://orcid.org/0000-0002-8536-8220> (2019) Regulating factory safety in the Bangladeshi garment industry. Regulation & Governance, 13 (3) . pp. 431-444. ISSN 1748-5983 [Article] (doi:10.1111/rego.12183)

Final accepted version (with author's formatting)

This version is available at: <https://eprints.mdx.ac.uk/22809/>

Copyright:

Middlesex University Research Repository makes the University's research available electronically.

Copyright and moral rights to this work are retained by the author and/or other copyright owners unless otherwise stated. The work is supplied on the understanding that any use for commercial gain is strictly forbidden. A copy may be downloaded for personal, non-commercial, research or study without prior permission and without charge.

Works, including theses and research projects, may not be reproduced in any format or medium, or extensive quotations taken from them, or their content changed in any way, without first obtaining permission in writing from the copyright holder(s). They may not be sold or exploited commercially in any format or medium without the prior written permission of the copyright holder(s).

Full bibliographic details must be given when referring to, or quoting from full items including the author's name, the title of the work, publication details where relevant (place, publisher, date), pagination, and for theses or dissertations the awarding institution, the degree type awarded, and the date of the award.

If you believe that any material held in the repository infringes copyright law, please contact the Repository Team at Middlesex University via the following email address:

eprints@mdx.ac.uk

The item will be removed from the repository while any claim is being investigated.

See also repository copyright: re-use policy: <http://eprints.mdx.ac.uk/policies.html#copy>



Regulating factory safety in the Bangladeshi garment industry

Journal:	<i>Regulation & Governance</i>
Manuscript ID	RegGov-02-2016-0026.R3
Manuscript Type:	Original Article
Keywords:	Safety, Garment industry, Bangladesh, Private regulation, Supply chains

SCHOLARONE™
Manuscripts

Regulating Factory Safety in the Bangladeshi Garment Industry

Abstract

This paper examines how far the workplace inspection programme established under the 2013 Accord on Fire and Building Safety has served to improve safety in Bangladesh garment factories, and the extent to which its operation has been influenced by the factors that the literature suggests are important in shaping the outcomes of private regulatory initiatives. Its findings suggest that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. They also caution against discounting the role of compliance-based enforcement strategies, while highlighting the importance of their adequate resourcing and transparency. Some support is also offered for the argument that such regulatory initiatives could directly influence the market dynamics that shape supplier working conditions.

Keywords: Bangladesh, garment industry, private regulation, safety, supply chains

Introduction

The offshoring of production to developing countries by multinational companies as part of the wider trend towards the establishment of globalised systems of supply has spawned an extensive literature on the labour conditions of those working in developing countries at the end of such supply chains. An important strand of this literature centres on the role of international labour standards in protecting and improving such conditions, and more specifically, that which can be played by systems of private regulation operated by multinationals themselves (Braithwaite and Drahos, 2000; O'Rourke, 2003; Vogel, 2008).

Existing evidence paints a mixed picture concerning how far such private systems of regulation have proved effective (Anner, 2012; Locke, 2013). It also suggests that this picture

reflects the varying influence of various contextual and structural factors (Trubek & Trubek, 2007; Bartley, 2011). For example, some analysts argue that their effectiveness is intimately connected to, and dependent on, their relationships with public, state-based regulation, and hence to the legal regulatory regime within which they are embedded (Locke, 2013; Locke, Rissing & Pal, 2013; Toffel, Short & Oullett, 2015). Others draw attention, more widely, to the role of a range of non-legal and essentially voluntaristic factors that serve to generate compliance, such as the extent of pressures emanating from consumer and other social bodies, and the mechanisms in place to monitor and enforce laid down standards, including the style of regulation adopted by non-state inspectors/auditors (see e.g. O'Rourke, 2003; Piore & Shrank, 2008; Robinson, Meyer & Kimeldorf, 2013). Meanwhile, a third line of analysis suggests that the effectiveness of private initiatives is shaped by the extent to which they act upon the procurement practices of buyers that act to undermine decent working conditions through the institutional refiguring of their surrounding market contexts (Anner et al, 2013).

The present paper sheds new light on the validity of these varying explanations of private regulatory effectiveness. It does so through examining the operation of the safety inspection regime introduced under The Accord on Fire and Building Safety (http://bangladeshaccord.org/wp-content/uploads/2013/10/the_accord.pdf) established by global unions and brands following the Rana Plaza factory collapse in April 2013, which left 1129 Bangladeshi workers dead and 2515 injured. Importantly, it is an initiative that is seen to provide a rare example of one that incorporates a focus on influencing the wider market behaviours of buyers (Anner et al, 2013). To this end, the paper addresses two related questions:

- a) To what extent there are grounds to believe that The Accord's inspection programme, as a private regulatory measure, is serving as a force for safety improvement;

- b) To what degree its operation in this respect has been positively or negatively impacted by the various contextual and structural factors referred to above.

The paper commences with a review of the literature on the effectiveness of private global supply labour regulation and the factors which influence it. It then moves on to outline the backcloth to, and nature of, The Accord initiative. Following this, both qualitative and quantitative data are used to address the above questions. In doing so, the article explores the implications they have for current debates about how the effectiveness of systems of private regulation aimed at enhancing the working conditions of those labouring within globalised supply relationships can be improved.

The private regulation of labour standards

The view that (international) labour standards were needed to combat the risk of competitive pressures driving down employment conditions has been expressed by a range of social thinkers from as early as the 19th century (see Heintz, 2002: 13). Commencing in 1919 with the adoption of the first six International Labour Organisation (ILO) Conventions, a complex body of such standards has subsequently evolved. The standards so promulgated vary enormously in terms of subject matter, with a useful distinction here being between ‘process standards/rights’ concerning such matters as freedom of association and the right to collective bargaining, and ‘substantive or outcome’ ones relating to matters like paid holidays, maternity leave and minimum or living wages (Luce, 2005: 3; Alston, 2004: 487). The target of the standards developed also varies between a focus, notably with those developed by the ILO, to influence the domestic laws and practices of nation states, and attempts, as with the OECD guidelines on multinational enterprises, to shape the international business activities (and therefore supply chain practices) of multinational/global trading corporations.

1
2
3 The focus on the regulatory role of multinationals reflects three interconnected but not
4 necessarily mutually consistent considerations. The first is a recognition that powerful supply
5 chain buyers can directly and indirectly act to drive down employment standards in supplier
6 organisations (James et al, 2015). The second is an acknowledgement that developing
7 countries frequently do not possess a regulatory capacity and/or willingness to counter such
8 adverse effects (Graham & Woods, 2006). The third is the belief that it is possible to use the
9 supply chain power of multinationals to improve, rather than harm, labour standards in
10 supplier organisations (James et al, 2007).

11
12 This last argument exists, however, alongside very mixed evidence concerning the *actual*
13 effectiveness of private, multinational initiatives. Indeed, with reference to the apparel sector,
14 it has been observed that despite concerted efforts ‘private compliance programs appear
15 largely unable to deliver on their promise of sustained improvements in labour standards in
16 the new centers of global production’ (Locke, 2013: 20). A variety of explanations have been
17 put forward to explain these disappointing outcomes and the outcomes of such initiatives
18 more generally. As indicated in the introductory discussion, these can be viewed as falling
19 into three broad categories which respectively emphasise the nature and extent of
20 *voluntaristic sources of compliance*, the degree of supporting state-based *legal regulation*,
21 and how far *markets are institutionally configured* to support the adoption of laid down
22 labour standards.

23
24 In relation to the first of these categories, it has been argued that the outcomes of private
25 regulatory initiatives are crucially influenced by the degree of pressure on multinationals
26 flowing from consumers and other sources of pressure to improve labour conditions in their
27 suppliers, as well the adequacy of the arrangements put in place to monitor and enforce any
28 codes of conduct they have developed (Gereffi, Humphrey & Sturgeon, 2005; Riisgaard &
29 Hammer, 2011; O’Rourke, 2003; Vogel, 2008; Toffel, Short & Oullett, 2015). In addition,
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

attention has been drawn to how compliance is potentially influenced by the style of regulation adopted by inspectors/auditors. Most notably, Locke and colleagues have argued that the adoption by them of a ‘compliance’ orientated approach is problematically based on three faulty assumptions, namely a belief that asymmetrical power relationships invariably exist between buyers and suppliers; an assumption that audits can generate reliable information about labour conditions within factories, and a view that deterrence forms an effective motivation towards compliance (see e.g. Locke et al, 2009). They have consequently gone on to argue that an alternative, commitment-based approach might offer a potentially more productive means of securing improved working conditions (Locke et al, 2009; Locke, 2013). That is, one in which the causes of labour standard non-compliance are addressed through buyers and suppliers working to improve work processes, and associated labour practices, via joint, mutuality-based, problem solving processes.

As regards the second of the above categories of explanation, attention has been drawn to the way in which the private regulatory initiatives of multinationals may be influenced by local, state-based regulatory arrangements. It has been argued that private regulatory systems are not transcendent. Rather, they are intertwined thickly with domestic laws, codes and practices (Trubek & Trubek, 2007; Bartley, 2011; Berliner & Prakash, 2014). Eberlein et al (2014) have consequently contended that it is important to understand how interactions between private and public forms of regulation impact on regulatory capacity and performance. In this regard, three rather different perspectives have been articulated on how private and public regulatory systems can productively combine together. One of these emphasises the general virtues of some form of mutually supportive complementarity between them (Locke et. al, 2007; Locke & Romis, 2010; Locke, Rissing & Pal, 2013). A second embodies the view that the state must remain a key actor in labour regulation, because there is no substitute for the effective exercise of government authority. To be effective, private regulation must, from this

perspective, therefore operate within an environment in which regulation is effectively enforced (see e.g. Esbenshade, 2004; Vogel, 2010). Finally, a third argues that, instead of displacing the state as regulator, private regulatory regimes play an important role in developing and strengthening the capacity of the state (Kolben, 2007; Kolben, 2011).

Anner et al (2013) have meanwhile advanced a third, rather different, line of explanatory analysis. While accepting that existing approaches have failed to eliminate, or even substantially reduce, labour violations in global supply chains, they question whether this failure can be meaningfully addressed through a better mix of private and public regulation, the commitment-based approach advocated by Locke and colleagues, enhanced systems of audit/inspection or increased ethical consumer pressures; although they don't discount that each of them might yield some beneficial outcomes. In their view, this is because while current initiatives are informed by an acknowledgement of the central role of buyers in creating conditions that encourage labour violations, they are seen, in an echo of the arguments of Bartley and Kincaid (2016), to 'leave this root cause unaddressed' (Anner et al, 2013: 6-7). Drawing on a historical analysis of how collectively bargained contracts in the U.S apparel industry prompted a dramatic decline in sweatshop conditions during the middle part of the twentieth century, they argue that a more effective way forward would be to directly regulate the market behaviours of buyers that drive labour conditions in supplier factories, including via the creation of legal liabilities where there is a failure to comply with laid down standards (p.14).

Anner and colleagues recognise the enormous challenges involved in creating such regulatory frameworks. They, however, argue that the global labour movement 'appears to be coalescing around' the type of approach they advocate (Anner et al, 2013: 42). In fact, they argue that key features of The Accord lend weight to this view. In particular, they highlight at least four

key ways in which the agreement reflects core principles of the collective contracts that previously applied in the U.S apparel industry. These are:

- The way in which it regulates the buying practices of buyers by imposing on them requirements to fund safety improvements, to terminate business with non-cooperative factories, and to provide multi-year commitments to suppliers, thereby potentially providing greater contract stability;
- The role unions are accorded in its governance, as well as the provision made for safety committees, union inputs into training and the sharing of inspection reports with workers’ representatives;
- The contractually binding nature of the Accord’s provisions; and
- The fact that, through its signatory companies, the agreement covers a broad portion of the industry, thereby reducing the extent to which its operational costs put individual buyers at a competitive disadvantage (p.28, 29).

Their arguments concerning the distinctive nature of The Accord in turn suggests that an investigation of its operation provides a unique opportunity to evaluate a private regulatory initiative to improve labour condition in global supply chains operation that potentially enables the influence of all the above sources of influence to be taken into account. Consequently, in what follows, such an analysis is attempted in relation to the way in which The Accord’s inspection programme has operated.

The origins and nature of The Accord

The Bangladeshi garment industry has long been notorious for its unsafe working conditions (Chartier, 2008; Labowitz & Baumann-Pauly, 2014). Accidents have claimed the lives of two thousand workers since 2005. There has also been a litany of factory fires and building

1
2
3 collapses which have killed and maimed many workers, these including at Spectrum,
4
5 Phoenix, Gharib, Tasreen and, of course, Rana Plaza (Ahmed, Raihan & Islam, 2013; Islam
6
7 & Ahmed, 2014; Kurpad, 2014; Peetha, 2016).

8
9
10 Global brands in their capacity as purchasers have traditionally incorporated the issue of
11
12 health and safety into their promulgated labour standards and associated monitoring and
13
14 enforcement processes (Anner, et, al, 2013; Abernathy, Dunlop, Hammond & Weil, 1999).
15
16 The collapse of the Rana Plaza factory, however, prompted unprecedented international
17
18 efforts to improve health and safety in the Bangladeshi garment industry. One of the most
19
20 significant of the developments to occur was the signing of an agreement, The Accord on Fire
21
22 and Building Safety in 2013.

23
24
25 Concluded against the backcloth of concerted pressure from both GUFs and NGOs (Reinecke
26
27 and Donaghey, 2015), The Accord is a five-year legally binding and enforceable agreement
28
29 between global brands and global trade union federations to build a safe garment industry.
30
31 Disputes concerning its implementation are, in the first instance, submitted to the initiative's
32
33 steering committee (see further below) for initial adjudication. Its decision may then
34
35 subsequently be appealed to a process of binding arbitration.¹ The resulting award may be
36
37 enforced in the home country of the signatory party that is the subject of a complaint, in line
38
39 with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, a
40
41 convention commonly referred to as the New York Convention.

42
43
44 Under The Accord, brands commit to a range of measures designed to improve working
45
46 conditions in the factories which supply them. It covers approximately 1,800 factories and
47
48 two million workers, half of the Bangladeshi garment workforce. The Accord has been signed
49
50 by over 200 apparel brands, retailers and importers from more than 20 countries in Europe,
51
52 North America, Asia and Australia (<http://bangladeshaccord.org/signatories/#witness-box>).

Meanwhile, a number of other (predominantly North American companies) chose not to join and instead launch a parallel, but less onerous safety initiative, called The Alliance (<http://www.bangladeshworkersafety.org/>).²

Governance of Accord affairs and its small implementation staff is via a steering committee consisting of three trade union representatives, three company representatives and an ILO chair. An advisory board includes Bangladeshi government representatives, and an executive director and safety inspector oversee safety improvement and worker participation programmes. Central to The Accord is the establishment of a system of private workplace inspections. Under this, global brands commit to (i) require supplier factories to submit to rigorous safety inspections (Article 9), (ii) accept public disclosure of inspection reports (Article 11), (iii) require suppliers to implement repairs and renovations necessary to make their factories safe (Article 12), (iv) pay suppliers prices sufficient for them to afford necessary repairs and operate safely (Article 22), and (v) cease doing business with suppliers failing to comply with any of the above requirements (Article 21).³

The impact of The Accord on factory safety in garment factories in Bangladesh is therefore, in large part, related to how far its inspection system has generated positive outcomes. In the analysis below, we address our two central research questions through an evaluation of this system's operation.

The Accord's inspection programme in action

In order to examine the operation of The Accord's programme of factory inspections, we draw on both primary and secondary data. In the case of the latter, use is made of statistics published on The Accord's website that shed light on the scale and operation of its workplace inspection programme. In particular, these statistics are utilised to (i) detail the number of

1
2
3 inspections undertaken, (ii) evaluate their outcomes e.g. numbers of workplaces where
4 improvements were recommended or closures occurred on safety grounds or as a result of a
5 failure to cooperate with the making of improvements, (iii) the aggregate number of
6 improvements required, and (iv) the progress that has been made in making them.
7
8
9

10
11
12 As regards the primary data collection, we draw on 23 interviews (face-to-face, skype,
13 telephone) conducted with 18 stakeholders in the Bangladeshi garment industry. These
14 respondents encompass representatives from The Accord (2), global brands (3), non-
15 governmental organisations (4) and global unions (3), a senior national trade union leader (1),
16 health and safety professionals (2), an academic researcher (1), and officials from the
17 Bangladesh Garment Manufacturers and Exporters Association (BGMEA) (2). Some of them
18 were interviewed more than once. Several global brands and officials from the BGMEA
19 declined our invitation to participate. Interviews were conducted between October 2014 and
20 February 2016. They were recorded, transcribed and analysed thematically and respondents
21 invited to clarify or supplement their responses.
22
23
24
25
26
27
28
29
30
31
32
33
34

35
36 In presenting our findings, we first detail the statistical data compiled by The Accord in order
37 to paint an essentially descriptive picture of the operation of its inspection programme. We
38 then draw upon the qualitative interview data collected to provide further insights into how
39 the programme has been operating and the factors which have been influencing it. It is
40 acknowledged that this means that interview data precedes statistical data by some months.
41
42 This, though, is felt to be defensible on presentational and analytical grounds and also
43 because a similar picture would have emerged if use was made of earlier sets of operational
44 statistics.
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

The quantitative picture

Under The Accord’s inspection programme, each factory is the subject of independent inspections of their fire, electrical and structural safety. Initial inspections are conducted by international engineering firms contracted by The Accord. After each inspection, a report is produced detailing its findings, including required remedial actions and timelines within which these should be carried out (so called “Corrective Action Plans”). A team of over 100 permanent Accord staff engineers then conduct up to 500 follow-up inspections each month, meaning that each Accord factory is currently inspected once every three to four months (The Accord, 2016; 4). Where such inspections are undertaken, a detailed report is produced and the relevant Corrective Action Plan updated. This report is sent not only to the factory concerned but also to the related brand and union signatories (The Accord, 2016: 6).

Defects identified during inspections are each given a deadline for their remediation. These deadlines range from ‘immediate’, for repairs and renovations that can be done in a matter of hours or days, to up to one year for more complex improvements. Where suppliers are failing to adequately progress improvements, they potentially face, under Article 21 of the Accord, a process of escalating warnings and notices that can ultimately lead to business with them being terminated (The Accord, 2016: 12).

For each factory inspected, The Accord website:

1. Identifies the (often very extensive) improvements needed;
2. Provides its Corrective Action Plan (CAP), which outlines not only the actions required but the timelines applying to the undertaking of them, as well as a supporting financial plan signed off by factory owner and the purchasing brand;
3. Details progress on implementing this plan; and

4. Indicates whether or not financial help is being provided to enable remediation to be carried out (<http://bangladeshaccord.org/factories/list-factories/>)

The Accord's website provides that, as of October 2016, initial inspections had been undertaken in 1551 factories (The Accord, 2016: 5) and that, by the end of June 2016, there had been 4098 follow-up inspections (The Accord, 2016: 12). It further indicates that escalation measures had been applied to 472 suppliers and that in 41 cases business had been terminated with suppliers (The Accord, 2016: 4).

It is nevertheless acknowledged that processes of remediation are often running considerable behind laid down deadlines (see Table 1 and 2 below).

Table 1: Rate of Progress (as of October, 2016)

Time since initial inspection	Number of factories behind schedule*
More than 1.5 years	1268
Between 1.5 and 1 year	19
Between 1 year and 0.5 year	87
Less than 0.5 year	14
Total factories behind schedule	1388

- Source: The Accord, 2016: 13, 14
- The phrase “behind schedule” means that Corrective Action Plans are being implemented but some timelines have not been met

Table 2: Progress levels in factories behind schedule

% of issues fixed (reported and verified)	Above 75%	50-75%	25-50%	Less than 25%
Number of factories	563	620	161	44
% of factories	40	45	12	3

- Source: The Accord, 2016: 14

At the same time, Tables 3 and 4 highlight that substantial numbers of improvements have been both identified and implemented through both initial and subsequent follow-up ones. Indeed, in total, the figures provided show that nearly 120,000 safety defects have been identified through such inspections, and that over 60,000 of these have been verified as having been remedied. Moreover, as Table 2 highlights, in nearly 1200 factories, between half and all required improvements have been implemented.

Table 3: Progress on improvements arising from initial inspections (information as of October, 2016)

	Corrected	Pending Verifications*	In Progress	Total
Electrical	25074	4055	4986	34115
Fire	16856	4800	11674	33330
Structural	4860	4249	1081	19950

- Source: The Accord, 2016: 10
- The term “corrected” means that the finding has been verified as corrected by the Accord engineers through follow-up verification visits. The phrase “pending verifications” means that the required improvements have been reported as completed but this has not been verified by Accord engineers. Finally, the phrase “in progress” means that remediation of the inspection findings is underway

Table 4: Progress on improvements arising from follow-up inspections (information as of October, 2016)

	Corrected	Pending Verifications	In Progress	Total
Electrical	13013	3095	6772	22880
Fire	2944	1096	3412	7452
Structural	168	198	401	767

- Source: The Accord, 2016: 10

How far financial support has been provided under the terms of The Accord to help factories make required safety improvements is unfortunately less clear. As part of every Corrective Action Plan, signatory companies and their suppliers are required to confirm that a remediation finance plan is in place. By the end of October 2016, 1361 such plans had been reported. On the basis of these reports, it appears that in 55 cases brands are providing financial assistance. However, The Accord reports that both labour and company signatories agree that in reality, such support is being more widely provided; although they disagree on the ‘question of whether and to what extent factories need financial assistance but are not receiving it, and whether that is a major cause for delays in remediation’ (The Accord, 2016: 15).

Qualitative insights

On the basis of these statistics, there would seem little doubt that The Accord is having a widespread and significant impact on factory safety, as regards fire, electrical and structural matters. Those interviewed offered confirmation of this:

SBT (a pro-union expert) argued (5, January 2016):

“Technical improvements in factories, the correct standards for building safety, electrical safety, and fire safety are finally being rolled out in factories. That's the change. And that has

1
2
3 *been done because brands have supported it...Rana has provided...that critical weight, to*
4 *bring about those kinds of changes. And brands have really given attention to those kinds of*
5 *issues. So you can say now that factories are safer...there is less likely to be fires, less likely*
6 *to collapse (sic). ”*
7
8
9
10

11
12
13
14 X (19, December, 2014), from The Accord, reported that factory owners had spent millions of
15 dollars on fire safety, sprinkler systems, updating electrical connections, etc. He reported on
16 the basis of verified evidence that “80% of factories are doing something, they are moving”.

17
18
19
20 G (Interview: 30, March, 2015), a western occupational health and safety professional
21 working with The Accord, commended the progress made since The Accord came into effect:
22
23 “...first time in which many factories even got inspected...500 corrective action plans which
24 have been approved and so you have someone to pay for remediation and you have a
25 plan...other corrective action plans under review...another 250 initial inspections in 2015. So
26 these are tremendous advances”
27
28
29
30
31
32
33
34

35
36 Last but not least, V (20, March, 2015), a signatory brand representative, suggested that the
37 situation had changed greatly. In the past, “electrical equipment... was not being taken care
38 of...cables left hanging around.... You go into a factory today and visually, you can see that
39 it’s being taken care of”. She went on to further remark that, previously, factory owners did
40 not think that safety was important, it was “just how things were...”, but now they understood
41 what caused fires and realised that their causes needed to be addressed.
42
43
44
45
46
47
48
49
50

51 A number of respondents attributed these positive outcomes to the legally binding character
52 of The Accord. WW (6, March, 2015), for example, explained that brands can now no longer
53 justify their voluntary approach to helping supplier factories, based on CSR rhetoric. The
54
55
56
57
58
59
60

1
2
3 only way to securing improvements in safety in factories is through brands observing legally
4 binding commitments:
5

6
7 *“The Accord is a departure from this [voluntary] culture, we are trying to drag brands and*
8 *retailers into a different kind of thinking. It is going to take a great deal of time, which is why*
9 *it is legally binding, because we understand that things will change only through constant*
10 *pressure and over an extended length of time.”*
11
12
13
14
15
16
17

18 Global unions were also reported to have resorted to the Accord’s legal mechanisms to bring
19 some brands back into line (Allchin & Kazmin, 2015). G (30, March, 2015) confirmed that
20 unions were preparing to file arbitration cases against several brands, who were failing to
21 comply with their obligations. At the time of writing, no public announcements have been
22 made. G suggested that this ought not to be viewed negatively since unions were using the
23 threat of legal proceedings to spur action on the part of brands.
24
25
26
27
28
29
30
31

32
33 These last observations were in turn advanced against the backcloth of criticisms of the
34 brands’ reticence to fund safety improvements and their failure to change their
35 approaches towards the pricing of supply contracts, despite Article 22 of The Accord
36 requiring them to ensure that it was financially feasible for factories to maintain safe
37 workplaces and comply with safety upgrade requirements. For example, S (10,
38 November, 2014), a GUF respondent, noted:
39
40
41
42
43
44
45
46

47
48 *‘The brands have failed to deliver their full financial contributions due under the*
49 *terms of The Accord. [Even] a contribution of a fraction of 1% of the global*
50 *brands’ annual turnover would comfortably secure all of the necessary funds’*
51
52
53
54
55
56
57
58
59
60

Meanwhile, F (21, March, 2015), a BGMEA respondent, observed:

‘...so when the building collapsed everybody said “you're at fault”, like to us, you're at fault but hold on, if you felt so judgemental about the whole thing, then maybe you should pay us a little more! Instead, our buyers continue to threaten us, saying, if you don't want to take our orders, we will go elsewhere cheaper. But factories cannot produce cheaper without cutting corners on workers' rights.’

Respondents also drew attention to how a ‘CSR-based’ interpretation by brands of their responsibilities under The Accord had a negative impact in this regard. WW (6, March, 2015) remarked:

‘The fact that you have brands which have a legal obligation to help factory owners, still using rhetoric which derives from CSR culture of voluntarism, is not surprising. It is annoying, but it is predictable...What matters is that factories get fixed, which will not happen if brands do not provide some form of financial assistance.’

It was further apparent that Bangladesh government support for The Accord was of a qualified nature, notwithstanding institutional appearances to the contrary.

Government departments and official bodies in Bangladesh initially supported The Accord’s aims in conjunction with increased government efforts to prevent accidents. It adopted a National Action Plan on Fire Safety and Structural Integrity, a National Occupational Safety and Health Policy and a revised Labour Act (Rahman, 2014). A task force on Building and Fire Safety for the garment sector, a hot line for reporting fire accidents and a publicly

1
2
3 accessible database on safety issues in garment factories were also established. In addition,
4
5 dozens of posts were created for fire inspectors to enforce safety standards in factories
6
7 outside The Accord. In turn, The Accord has affirmed and supported state initiatives on fire
8
9 and building safety. The fire, electrical and building inspection standards utilised for the
10
11 inspections of Accord factories are largely based on the Bangladesh National Building Code
12
13 and are the product of discussions between The Accord, the National Tripartite Plan of
14
15 Action, and the Alliance for Bangladesh Worker Safety (Alliance), initiated and facilitated by
16
17 the International Labour Organisation (<http://bangladeshaccord.org/building-standards/>).
18
19 Furthermore, the Accord engages with the government through its Advisory Board, as noted
20
21 earlier, through direct contact with officials and through its relations with the Bangladesh
22
23 University of Engineering and Technology, which supports the government in its factory
24
25 inspections (Articles 6, 7).
26
27
28
29

30
31 Notwithstanding these various forms of apparently mutually supportive collaboration, a
32
33 common theme raised by respondents, however, was how hostility towards The Accord on
34
35 the part of many factory owners privately received support from the government in a context
36
37 in which 50% of politicians are associated with the garment industry, primarily via
38
39 ownership. Additionally, the government is heavily dependent on funding from business (B,
40
41 23, October, 2014; X, 19, December, 2014). One respondent from The Accord, for example,
42
43 reported how it was viewed by government officials as “a bunch of cowboys” (X, 19
44
45 December, 2014). He further referred to a recent well-publicised “expo” on health and safety
46
47 in Bangladesh. Immediately before the expo, the Prime Minister declared in a cabinet
48
49 meeting “We have our own programme, so...you do not need to prioritise...The Accord”. In
50
51 a similar vein, representatives of global brands (N, 24 February, 2015; P, 4 March, 2015)
52
53 argued that the government lacked a political will to improve safety. They criticised state
54
55 policy in practice, arguing that in reality domestic regulations on safety governance were
56
57
58
59
60

never enforced. More generally, according to SBT (5 January, 2016), the government has made it clear it does not want to prolong participation in the Accord after its five-year term comes to an end.

Unions, as key pressure groups, continue to operate in a very hostile environment, despite reform of domestic labour laws to enable workers to form unions more freely (Rahman, 2014). P (4 March, 2014) cautioned that a “pathological hatred for unions” remained among employers, while WW (6 March, 2015), argued that the government ignored employers’ violent anti-union tactics. Such views have received external support. The International Labour Rights Forum (2014) has reported continuing anti-worker violence in the garment industry, noting governmental failures to address serious rights violations. It also claims that government ministers have personally intimidated labour activists, calling for action against those reporting violence on labour organisers and suggesting that they were acting against Bangladeshi interests. Such concerns have more led the ITUC and European TUC, along with Global Union Federations UNI and IndustriALL and their European regional bodies, to write to the European Commission (ITUC-CSI-IGB, 2015) calling on it to step up action as anti-union repression in Bangladesh had increased.

Discussion

On the basis of the presented findings, it is clear that the achievements of The Accord cannot easily be dismissed. With the exception of a small number of new supplier factories, inspections have been undertaken in all relevant factories and an extensive programme of follow-up ones is in place. It is further clear that these inspections have identified a vast number of electrical, fire and structural safety defects and that many of these have been remedied.

At the same time, the operation of The Accord's inspection programme can be seen to have embodied problematic features and therefore, highlights the challenges that attempts to improve labour standards at the end of buyer-led supply chains face. In many cases, progress on remedying identified safety defects has been slow and certainly outside laid down deadlines, while almost 10 per cent of covered factories have been subjected to The Accord's system of warnings and notices because of their lack of commitment to implementing the safety improvements deemed necessary as a result of inspections. In addition, business with some 40 factories has been terminated on the grounds of their lack of cooperation. Meanwhile, although it remains unclear how far buyers are providing financial support to help make required improvements, tensions between the improvement of safety and the financial objectives of buyers would seem to exist, both in relation to the continuation of existing pricing models and differing perceptions among union and company signatories regarding the provision of such support. Furthermore, against the backcloth of the political influence wielded by factory owners, it is apparent that the support provided by the Bangladesh government to The Accord is very much of a qualified nature, notwithstanding that representatives of the government sit on The Accord's advisory board and hence form part of its governance arrangements.

It must be further admitted that the statistical data provided on the outcomes of The Accord's inspection programme cannot unquestionably be said to show that the safety of workers in the inspected factories has improved and hence that The Accord has been effective. The only reliable test of this is whether it becomes apparent overtime that fires and building collapses have become significantly less common.⁴ This said, the standards against which these defects have been identified were agreed in ILO initiated and facilitated discussions between the

1
2
3 Accord, the NTPA and the Alliance for Bangladesh Worker Safety. As a result, they were
4
5 agreed by both local and global union representatives and hence, at a minimum, seem
6
7 unlikely to fall significantly below internationally acceptable standards. This in turn logically
8
9 suggests that Accord inspections are acting to identify many (although not necessarily all) of
10
11 the main risks concerned.
12
13

14
15
16 This apparently positive picture of achievement clearly offers some confirmation for the view
17
18 that private regulatory initiatives can serve to improve labour conditions in global supply
19
20 chains. In doing so, it also brings us back to the question posed at the beginning of the paper
21
22 about how its operation has been impacted by the various factors that existing literature
23
24 suggests are important in shaping the outcomes of private regulatory initiatives. On the basis
25
26 of the collected data, it cannot be claimed that this question can be definitely answered.
27
28 Nevertheless, they do enable a number of conclusions to be drawn with varying degrees of
29
30 confidence regarding the respective roles of the three categories of explanatory factors
31
32 identified earlier: the nature and extent of *voluntaristic sources of compliance*, the degree of
33
34 supporting state-based *legal regulation*, and how far *markets are institutionally configured* to
35
36 support the adoption of laid down labour standards through the procurement practices of
37
38 buyers.
39
40
41
42
43
44

45 In the case of the first of these, it would seem unquestionable that the horrific nature of the
46
47 Rana Plaza disaster and the public/consumer pressures it generated to do something about
48
49 working conditions in Bangladesh garment factors played a crucial role in the establishment
50
51 of The Accord and its unique form as a joint company-union collaboration involving a
52
53 collectivity of brands (Reinecke and Donaghey, 2015). Its creation therefore adds clear
54
55 weight to the view that the development of such initiatives generally stem from wider social
56
57
58
59
60

1
2
3 pressures that act to prompt a recognition among buyers of the need to be seen to be trying to
4
5 counter some of the adverse labour effects flowing from their market-driven supply
6
7 relationships.
8
9

10
11 Insofar as the Accord's compliance-orientated inspection programme has been effective in
12
13 reducing the risks of fires and building collapses, this impact cannot logically be divorced
14
15 from the fact that its resourcing has been sufficient to support the appointment of an
16
17 international consultancy to conduct initial inspections of all factories and the carrying out of
18
19 regular follow-up inspections by a current complement of over 100 engineering inspection
20
21 staff. The programme's operation therefore draws attention to the point that the impact of
22
23 private regulatory initiatives is likely to be tied up with the issue of the resources devoted to
24
25 their implementation. It further acts to raise an important qualification concerning Locke's
26
27 critique of compliance-based regulation, namely that it largely side-steps this issue of
28
29 resources and therefore the possibility that part of its apparent problematic impact stems from
30
31 the fact that it has frequently not been adequately resourced. In doing so, the programme's
32
33 operation arguably suggests that the scope for compliance, as opposed to commitment, based
34
35 enforcement mechanisms to generate improvements in labour standards may be greater than
36
37 Locke and his colleagues suggest.
38
39
40
41
42
43
44

45 As regards the argument that the effectiveness of private regulatory initiatives is influenced
46
47 by the degree to which they receive support from surrounding state-based legal regulation,
48
49 the findings obtained do not rule out that such complementarity can be beneficial. They do,
50
51 however, suggest that the presence of such support is not necessarily crucial. Thus, a striking
52
53 feature of the outcomes of The Accord's inspection programme is that they were achieved
54
55
56
57
58
59
60

1
2
3 against the backcloth of a very mixed and qualified degree of support from the Bangladesh
4
5 government and with no direct involvement of government inspectors.
6
7

8
9
10 Finally, as to the argument of Anner et al (2013) relating to the need for global supply
11
12 initiatives to address ‘the root cause’ of problematic labour conditions, namely the buying
13
14 practices of buyers, it is not possible to conclusively demonstrate on the basis of the collected
15
16 data how far, and through what means, all of the characteristics listed on page 7 have
17
18 contributed to The Accord’s positive outcomes. However, and notwithstanding the reported
19
20 problems and disagreements surrounding the provision of financial assistance by brands to
21
22 support safety improvements, it is hard to believe that the joint nature of its founding
23
24 agreement, and the transparency that has flowed from it, have not served to enhance the
25
26 priority accorded to safety related matters and associated expenditure. Particularly when the
27
28 role that reputational considerations played in The Accord’s establishment is borne in mind
29
30 (Reinecke & Donaghey, 2015). Thus, The Accord’s commitment to put on its website all
31
32 inspection reports and to detail progress in implementing their recommendations has served
33
34 to provide much scope for unions and pressures groups to monitor whether safety
35
36 improvements are carried out with sufficient urgency. Indeed, it was concerns over the slow
37
38 progress being achieved that led The Accord to expand the number of inspection staff to its
39
40 current level. In this regard, the operation of The Accord can be contrasted with the
41
42 difficulties that pressure groups have faced in assessing progress in making safety
43
44 improvements in factories supplying companies forming part of the Alliance, where it has
45
46 only been possible to gain insights into this by drawing on data from factories inspected
47
48 under The Accord that are also used by signatory companies of the Alliance (International
49
50 Labour Rights Forum, et al, 2016).
51
52
53
54
55
56
57
58
59
60

1
2
3 It can consequently be argued that neither Locke, in his critique of compliance-based
4 regulation, nor Anner and colleagues, in their advocacy for a contract-based approach to joint
5 brand liability, have accorded sufficient weight to the role that transparency can play in
6 supporting the implementation of private regulatory initiatives. This view is given added
7 weight by studies concerning the role that transparency has played in supporting the
8 operation of other private regulatory initiatives and the factors that influence the extent to
9 which it has done so. For example, research by Auld & Gulbrandsen (2010, 2014) on the
10 operations of the Forest Stewardship Council and the Marine Stewardship Council, found that
11 that transparent processes (granting ultimate decision-making authority to members, open
12 engagement with stakeholders, publishing assessment reports, and increasing the online
13 disclosure of audit outcomes) improved both their legitimacy and accountability. Meanwhile,
14 in an empirical analysis of levels of transparency in 143 regulatory standard-setting
15 programmes in the field of transnational sustainability, Schleifer et al found transparency to
16 be positively correlated with multi-stakeholder initiatives (with NGOs and public actors) and
17 those in which meta-governance organisations promote an overarching normative framework
18 for transnational rule-making (Schleifer, Fiorini & Auld, 2017). Together, such findings
19 suggest that future research on The Accord could usefully focus more detailed attention on
20 how its operation has been influenced by its systems of internal governance and information
21 disclosure, including the manner in which they mutually interact.
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

51 The differing perceptions of signatory unions and companies about how far brands are
52 funding safety improvements also usefully illustrates the way in which The Accord, as Anner
53 and colleagues have argued, departs from the unilateral nature of much multinational supply
54 chain action. Furthermore, it should not be forgotten that another consequence of The Accord
55
56
57
58
59
60

has been the establishment of a regime of safety inspection under which factories supplying over 200 brands are required to comply with a common set of requirements in the areas of electrical, fire and structural safety and which therefore acts to limit their capacity to accommodate cost-cutting pressures by cutting corners on safety. Moreover, this feature is effectively reinforced by the fact that factories are often supplying a number of different Accord signatory companies and so potentially similarly reduces the ability of brands to competitively drive down the prices they pay.

Given the above analysis, it would seem reasonable to argue that, through a combination of the four features listed on page 7, The Accord does to some extent provide a platform through which ‘root cause’ market dynamics can be addressed. This view is furthermore reinforced by the fact that although the legal enforcement mechanisms of The Accord have so far not been formally utilised, many of those interviewed did allude to the significance of its legally-binding nature. It may, therefore, be that the lack of formal legal action conceals how it has been used as a threat to bring recalcitrant brands into line.

While, then, it cannot be claimed that the study’s findings offer firm confirmatory support to the arguments advanced by Anner and colleagues, they do suggest that they cannot sensibly be disregarded. There would seem a consequent need for them to be subjected to more detailed evaluation via a more in-depth and broader evaluation of The Accord in which all its constituent elements, including its systems of governance and information disclosure, are examined to identify their individual and combined effects. . This is particularly so given that at least some of those involved in the development and governance of The Accord believe it to have had a positive effect and to be financially viable in the longer term. Thus, while the BGMEA only favours an extension to its tenure beyond May 2018 as a ‘monitoring team’

(New Age Business, 2017), more than 20 brands and the UNI and IndustriALL global unions have, subsequent to the research reported here, recently agreed a follow-on Accord agreement (Industriall, 2017a), which it is anticipated will eventually be signed by many more brands. Already, however, it is estimated that the new agreement will extend to cover over a thousand garment factories (The Accord, 2017; Industriall, 2017b).⁵ Furthermore, in the build up to the July 2017 G20 summit in Hamburg, a number of global unions called on participants to look to The Accord as a model for promoting sustainable business practices. The Deputy Secretary of UNI Global Union, for example, observing that its ‘model of accountability and transparency works’ (<http://passport.uniglobalunion.org/news/global-unions-urge-world-leaders-elevate-example-bangladesh-accord>).

Conclusion

This paper has sought to cast further light on the role of the various factors that have been argued to affect the development and operation of private regulatory initiatives aimed at protecting and enhancing the working conditions of those labouring at the end of global supply chains. To this end, it has drawn on a combination of primary and secondary data on the operation of the 2013 Accord on Fire and Building Safety to address how far its programme of workplace inspections has acted as a source of safety improvement and to what extent its operation, in this regard, has been influenced by factors which the literature suggests are important in determining the outcomes of private regulatory initiatives.

The findings obtained lend weight to the view that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. In doing so, they caution against discounting the role that compliance-orientated enforcement strategies can play in supporting the implementation of laid down labour standards, while also drawing attention to

the importance of their adequate resourcing and, critically, the transparent nature of monitoring processes. They also lend more tentative weight to the argument that the effectiveness of such regulatory initiatives would be enhanced if they focussed attention on mediating the market dynamics that act to undermine the provision of decent working conditions.

Appendix 1: Interview respondents and dates

B; 23, October, 2014	GUF Respondent
S; 10, November, 2014	GUF Respondent
X; 19 December, 2014	Respondent from The Accord
N; 24, February 2015	Global Brand Representative
P; 4, March, 2015	Global Brand Representative
WW; 6, March 2015	Respondent from a Labour Rights Organisation
V; 20, March, 2015	Global Brand Representative
F, 21, March, 2015	BGMEA Respondent
G; 30, March, 2015	Western occupational health and safety professional working with The Accord
SBT; 5, January, 2016	Trade Union Expert

References

Abernathy FH, Dunlop JT, Hammond JH, Weil D (1999) *A Stitch in Time: Lean Retailing and the Transformation of Manufacturing - Lessons from the Apparel and Textile Industries*. Oxford: Oxford University Press.

Allchin J, Kazmin A, (2015) “Unions censure western brands over Bangladesh factory safety delays”, 1 October, at <https://www.ft.com/content/7a3822e6-6804-11e5-a155-02b6f8af6a62> (accessed 31, March, 2017)

Ahmed, S. Raihan, MZ. & Islam, N. (2013) “Labour Unrest in the Ready-Made Garment Industry of Bangladesh” *International Journal of Business and Management*; 8, 15, 68-80

Alston P (2004) Core Labour Standards and the Transformation of the International Labour Rights Regime. *European Journal of International Law* 15(3), 457-521.

Anner, M. (2012) “Corporate Social Responsibility and Freedom of Association Rights: The Precarious Quest for Legitimacy and Control in Global Supply Chains,” *Politics & Society*, 40, 4, 609-644.

Anner M, Bair J, Blasi, J (2013) Toward joint liability on global supply chains: Addressing the Root Causes of Labour Violations in International Subcontracting Networks. *Comparative Labour Law and Policy Journal* 35, 1-43.

Auld, G. & Gulbrandsen, L. (2010) “Transparency in Nonstate Certification: Consequences for Accountability and Legitimacy” *Global Environmental Politics*, 10, 3, 97-119

Auld, G. & Gulbrandsen, L. (2014) “Learning through Disclosure: The Evolving Importance of Transparency for Nonstate Certification” in: Aarti Gupta and

Michael Mason, Transparency in Global Environmental Governance: Critical Perspectives, pp 271-296. MIT Press: Cambridge

Bartley T (2011) Transnational Governance as the Layering of Rules: Intersections of Public and Private Standards. *Theoretical Inquiries in Law* 12(2), 517-542.

Bartley, T, Kincaid, D (2016) “The Mobility of Industries and the Limits of Corporate Social Responsibility: Labor Codes of Conduct in Indonesian Factories” in (eds) Tsutsui, K, Lim, A. *Corporate Responsibility in a Globalizing Worlds: Global Dynamics and Local Practices*, Cambridge, Cambridge University Press, pp. 393-429.

Berliner D, Prakash A (2014) Public Authority and Private Rules: How do Domestic Regulatory Institutions shape the adoption of global private regimes. *International Studies Quarterly*, 58, 4, 793-803

Braithwaite J, Drahos P (2000) *Global Business Regulation*. Cambridge: Cambridge University Press.

CPD RMG Study 2016, (2017), “Accord’s work not to be finished by 2018” 8, May, 2017 at <http://rmg-study.cpd.org.bd/77pc-rmg-factories-meet-accord-requirements/> (accessed 28, June, 2017)

Chartier G (2008) Sweatshops, Labour Rights and Competitive Advantage. *Oregon Review of International Law*, 10, 149-188

Eberlein B et al (2014) Transnational Business Governance Interaction: Conceptualisation and Framework for Analysis. *Regulation & Governance*, 8, 1, 1-21

Esbenshade J (2004) Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry. Temple University Press, Philadelphia, PA.

Gereffi G, Humphrey J, Sturgeon T (2005) The Governance of Global Value Chains. *Review of International Political Economy* 12(1), 78-104.

Graham D, Woods N (2006) Making Corporate Self-Regulation Effective in Developing Countries. *World Development* 34(5), 868–883.

Heintz J (2002) *Global Labor Standards: Their Impact and Implementation*. Working Paper 46, Political Economy Research Centre, University of Massachusetts.

Industriall, (2017a) “Signatories to the 2018 Accord” 10 July, 2017, at <http://www.industriall-union.org/signatories-to-the-2018-accord> (accessed 26, July, 2017)

Industriall, (2017b) “Leading fashion brands join with unions to sign new Bangladesh Accord on Fire and Building Safety” 29.06.2017, at <http://www.industriall-union.org/leading-fashion-brands-join-with-unions-to-sign-new-bangladesh-accord-on-fire-and-building-safety> (accessed 26, July, 2017)

International Labour Rights Forum (2014) Progress in Bangladesh? July, at <http://www.laborrights.org/blog/201407/progress-bangladesh> (accessed 1 November, 2015)

International Labour Rights Forum, et al (2016) “Dangerous Delays on Worker Safety” November, at <https://cleanclothes.org/resources/publications/dangerous-delays-on-worker-safety> (accessed 31, March, 2017)

Islam N, Ahmed S (2014) Socio-Economic Factors and Labour Unrest in Ready –Made Garment Industry of Bangladesh. *Journal of Education Research and Behavioural Sciences*, 3, 2, 65-74

ITUC-CSI-IGB (2015) *Bangladesh: Business as Usual as Garment Brands Stall Progress*.
March. [Last accessed 1 Nov 2015.] Available from URL: <http://www.ituc-csi.org/bangladesh-business-as-usual-as>

James P, Johnstone R, Quinlan M and Walters D (2007) Regulating Supply Chains to Improve Health and Safety. *Industrial Law Journal* 36 (2), 163-187.

James P, Walters D, Sampson H. and Wadsworth E (2015) Regulating the Employment Dynamics of Domestic Supply Chains. *Journal of Industrial Relations* 57(4), 526-543.

Kolben K (2007) Integrative Linkage: Combining Public and Private Regulatory Approaches in the Design of Trade and Labour Regimes. *Harvard International Law Journal* 48(1), 203–256.

Kolben K (2011) Transnational Labour Regulation and The Limits of Governance. *Theoretical Inquiries in Law* 12(2), 403–437

Kurpad MR (2014) Made in Bangladesh: Challenges to the RMG Industry. *Journal of International Trade Law and Policy*, 13, 1, 80-96

Labowitz S, Baumann-Pauly, D (2014) Business as Usual is Not an Option, *Center for Business and Human Rights at NYU Leonard N. Stern School of Business*, 1-65

Locke R, Kochan T, Romis M, Qin F (2007) Beyond Corporate Codes of Conduct: Work Organisation and Labour Standards at Nike’s Suppliers. *International Labour Review* 146(1-2), 21–40

Locke R, Amengual M, Mangla, A. (2009) Virtue out of Necessity? Compliance, Commitment, and the Improvement of Labour Conditions in Global Supply Chains. *Politics & Society*, 37(3), 319-351

- 1
2
3 Locke R, Romis, M (2010) The Promise and Perils of Private Voluntary Regulation: Labour
4 Standards and Work Organisation in two Mexican Garment Factories. *Review of International*
5
6
7 *Political Economy*, 17(1), 45-74
8
9
10 Locke R, Rissing B, Pal T (2013) Complements or Substitutes? Private Codes, State
11 Regulation and the Enforcement of Labour Standards in Global Supply Chains. *British*
12
13 *Journal of Industrial Relations* 51(3), 519-552.
14
15
16
17
18 Locke R (2013) The Promise and Limits of Private Power, Promoting Labour Standards in a
19 Global Economy. Cambridge University Press, New York.
20
21
22
23 Luce S (2005) *The Case for International Labour Standards: A “Northern” Perspective*. IDS
24 Working Paper 250. Brighton: University of Sussex.
25
26
27
28 New Age Business, (2017), “Accord can stay beyond 2018 as monitoring team: BGMEA” 25,
29 June, 2017 at [http://www.newagebd.net/article/18531/accord-can-stay-beyond-2018-as-](http://www.newagebd.net/article/18531/accord-can-stay-beyond-2018-as-monitoring-team-bgmea)
30
31
32 monitoring-team-bgmea (accessed 28, June, 2017)
33
34
35 O’Rourke D (2003) Outsourcing Regulation: Analysing Non-governmental systems of
36 Labour Standards and Monitoring. *The Policy Studies Journal* 31(1), 1–30.
37
38
39
40 Piore M, Shrank A (2008) “Toward Managed Flexibility: The Revival of Labour Inspection in
41 the Latin World” *International Labour Review*, 147(1), 1-23.
42
43
44
45 Rahman Z (2014) Accord on Fire and Building Safety in Bangladesh”: A Breakthrough
46 Agreement? *Nordic Journal of Working Life Studies*, 4(1) 69-74.
47
48
49
50 Reinecke J, Donaghey J (2015) After Rana Plaza: Building Coalitional Power for Labour
51 Rights Between Unions and (Consumption-Based) Social Movement Organisations.
52
53
54
55 *Organization* 22, 720-740.
56
57
58
59
60

Riisgaard L, Hammer N (2011) Prospects for Labour in Global Value Chains: Labour Standards in the Cut Flower and Banana Industries. *British Journal of Industrial Relations*, 49(1), 168-190.

Robinson I, Meyer R, Kimerldorf H (2013) “The Strength of Weak Commitments: Markets Contexts and Ethical Consumption” in (eds.) Bair, J. Dickson, M. & Miller, D. Workers’ Rights and Labour Compliance in Global Supply Chains: Is a Social Label the Answer, New York, Routledge, pp. 140-163.

Schleifer, P. et. al. (2017) “Transparency in Transnational Sustainability Governance: A Multivariate Analysis of Regulatory Standard-Setting Programs” EUI Working Paper RSCAS 2017/16, available at file:///C:/Users/Home/Downloads/SSRN-id2934140.pdf (accessed 28, June, 2017).

The Accord, (2016) Quarterly Aggregate Report, at <http://bangladeshaccord.org/wp-content/uploads/Quarterly-Aggregate-Report-31-October-2016.pdf> (accessed 31, March, 2017).

The Accord, (2017) “Press Release New Accord” 29, June, 2017 at <http://bangladeshaccord.org/2017/06/press-release-new-accord-2018/> (accessed 26, July, 2017).

Toffel M, Short J, Oullett M (2015) Codes in Context: How States, Market`s and Civil Society Share Adhere to Global Labour Standards. *Regulation & Governance*, 9, 3, 205-223.

Trubek D, Trubek L (2007) New Governance and Legal Regulation: Complementarity, Rivalry or Transformation. *Columbia Journal of European Law* 13, 539-564.

Vogel D (2008) Private Global Business Regulation. *Annual Review of Political Science*, 11, 261-282.

Vogel D (2010) The Private Regulation of Global Corporate Conduct: Achievements and Limitations. *Business and Society* 49(1), 68-87.

Walters, D, Quinlan, M, Johnstone, R. and Wadsworth, E (2016) Cooperation or Resistance? Representing Workers' Health and Safety in a Hazardous Industry. *Industrial Relations Journal*, 47(4), 379-395.

Notes

¹ It is specified that the process for selecting the arbitrator will be governed by the UNCITRAL Model Law on International Commercial Arbitration 1985.

² There are several differences between The Accord and The Alliance. The Accord is an agreement between global unions, on the one hand, and global brands and retailers, on the other. The Alliance is an agreement between global brands and retailers only; it is a corporate-led initiative. In addition, whilst it is a contractual requirement to do so under The Accord, The Alliance does not require members to pay for remediation. Thirdly, under The Accord, worker representative organisations may take enforcement action. Under The Alliance, workers cannot enforce the agreement although they can report any breach to the companies. Last but not least, The Accord requires a much higher level of transparency from global brands and retailers about the progress of repairs. See <https://cleanclothes.org/news/2016/11/21/alliance-for-bangladesh-worker-safety-overstates-progress-while-workers-lives-remain-at-risk>

³ As noted earlier, these provisions existing alongside others which, among other things, impose an obligation on buyers to make an initial two-year commitment to purchase at current volumes from suppliers, and lay down requirements on training (including inputs from union representatives), the establishment of safety committees and worker representation more generally.

⁴ This point arguably takes on even greater significance in relation to the impact of other elements of The Accord such as the requirements laid down with regard to the provision of training and the establishment of safety committees. Thus, it cannot simply be assumed that actions in these areas will lead to improved standards of safety protection. The evidence on the factors which influence the effectiveness of safety committees, for example, illustrates this point well (see e.g. Walters et al, 2016).

⁵ The text of the new agreement can be obtained at :(<http://bangladeshaccord.org/wp-content/uploads/2018-Accord-full-text.pdf>)

Regulating Factory Safety in the Bangladeshi Garment Industry

Abstract

This paper examines how far the workplace inspection programme established under the 2013 Accord on Fire and Building Safety has served to improve safety in Bangladesh garment factories, and the extent to which its operation has been influenced by the factors that the literature suggests are important in shaping the outcomes of private regulatory initiatives. Its findings suggest that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. They also caution against discounting the role of compliance-based enforcement strategies, while highlighting the importance of their adequate resourcing and transparency. Some support is also offered for the argument that such regulatory initiatives could directly influence the market dynamics that shape supplier working conditions.

Keywords: Bangladesh, garment industry, private regulation, safety, supply chains

Introduction

The offshoring of production to developing countries by multinational companies as part of the wider trend towards the establishment of globalised systems of supply has spawned an extensive literature on the labour conditions of those working in developing countries at the end of such supply chains. An important strand of this literature centres on the role of international labour standards in protecting and improving such conditions, and more specifically, that which can be played by systems of private regulation operated by multinationals themselves (Braithwaite and Drahos, 2000; O'Rourke, 2003; Vogel, 2008).

Existing evidence paints a mixed picture concerning how far such private systems of regulation have proved effective (Anner, 2012; Locke, 2013). It also suggests that this picture

reflects the varying influence of various contextual and structural factors (Trubek & Trubek, 2007; Bartley, 2011). For example, some analysts argue that their effectiveness is intimately connected to, and dependent on, their relationships with public, state-based regulation, and hence to the legal regulatory regime within which they are embedded (Locke, 2013; Locke, Rissing & Pal, 2013; Toffel, Short & Oullett, 2015). Others draw attention, more widely, to the role of a range of non-legal and essentially voluntaristic factors that serve to generate compliance, such as the extent of pressures emanating from consumer and other social bodies, and the mechanisms in place to monitor and enforce laid down standards, including the style of regulation adopted by non-state inspectors/auditors (see e.g. O'Rourke, 2003; Piore & Shrank, 2008; Robinson, Meyer & Kimeldorf, 2013). Meanwhile, a third line of analysis suggests that the effectiveness of private initiatives is shaped by the extent to which they act upon the procurement practices of buyers that act to undermine decent working conditions through the institutional refiguring of their surrounding market contexts (Anner et al, 2013).

The present paper sheds new light on the validity of these varying explanations of private regulatory effectiveness. It does so through examining the operation of the safety inspection regime introduced under The Accord on Fire and Building Safety (http://bangladeshaccord.org/wp-content/uploads/2013/10/the_accord.pdf) established by global unions and brands following the Rana Plaza factory collapse in April 2013, which left 1129 Bangladeshi workers dead and 2515 injured. Importantly, it is an initiative that is seen to provide a rare example of one that incorporates a focus on influencing the wider market behaviours of buyers (Anner et al, 2013). To this end, the paper addresses two related questions:

- a) To what extent there are grounds to believe that The Accord's inspection programme, as a private regulatory measure, is serving as a force for safety improvement;

- b) To what degree its operation in this respect has been positively or negatively impacted by the various contextual and structural factors referred to above.

The paper commences with a review of the literature on the effectiveness of private global supply labour regulation and the factors which influence it. It then moves on to outline the backcloth to, and nature of, The Accord initiative. Following this, both qualitative and quantitative data are used to address the above questions. In doing so, the article explores the implications they have for current debates about how the effectiveness of systems of private regulation aimed at enhancing the working conditions of those labouring within globalised supply relationships can be improved.

The private regulation of labour standards

The view that (international) labour standards were needed to combat the risk of competitive pressures driving down employment conditions has been expressed by a range of social thinkers from as early as the 19th century (see Heintz, 2002: 13). Commencing in 1919 with the adoption of the first six International Labour Organisation (ILO) Conventions, a complex body of such standards has subsequently evolved. The standards so promulgated vary enormously in terms of subject matter, with a useful distinction here being between ‘process standards/rights’ concerning such matters as freedom of association and the right to collective bargaining, and ‘substantive or outcome’ ones relating to matters like paid holidays, maternity leave and minimum or living wages (Luce, 2005: 3; Alston, 2004: 487). The target of the standards developed also varies between a focus, notably with those developed by the ILO, to influence the domestic laws and practices of nation states, and attempts, as with the OECD guidelines on multinational enterprises, to shape the international business activities (and therefore supply chain practices) of multinational/global trading corporations.

1
2
3 The focus on the regulatory role of multinationals reflects three interconnected but not
4 necessarily mutually consistent considerations. The first is a recognition that powerful supply
5 chain buyers can directly and indirectly act to drive down employment standards in supplier
6 organisations (James et al, 2015). The second is an acknowledgement that developing
7 countries frequently do not possess a regulatory capacity and/or willingness to counter such
8 adverse effects (Graham & Woods, 2006). The third is the belief that it is possible to use the
9 supply chain power of multinationals to improve, rather than harm, labour standards in
10 supplier organisations (James et al, 2007).

11
12 This last argument exists, however, alongside very mixed evidence concerning the *actual*
13 effectiveness of private, multinational initiatives. Indeed, with reference to the apparel sector,
14 it has been observed that despite concerted efforts ‘private compliance programs appear
15 largely unable to deliver on their promise of sustained improvements in labour standards in
16 the new centers of global production’ (Locke, 2013: 20). A variety of explanations have been
17 put forward to explain these disappointing outcomes and the outcomes of such initiatives
18 more generally. As indicated in the introductory discussion, these can be viewed as falling
19 into three broad categories which respectively emphasise the nature and extent of
20 *voluntaristic sources of compliance*, the degree of supporting state-based *legal regulation*,
21 and how far *markets are institutionally configured* to support the adoption of laid down
22 labour standards.

23
24 In relation to the first of these categories, it has been argued that the outcomes of private
25 regulatory initiatives are crucially influenced by the degree of pressure on multinationals
26 flowing from consumers and other sources of pressure to improve labour conditions in their
27 suppliers, as well the adequacy of the arrangements put in place to monitor and enforce any
28 codes of conduct they have developed (Gereffi, Humphrey & Sturgeon, 2005; Riisgaard &
29 Hammer, 2011; O’Rourke, 2003; Vogel, 2008; Toffel, Short & Oullett, 2015). In addition,
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

attention has been drawn to how compliance is potentially influenced by the style of regulation adopted by inspectors/auditors. Most notably, Locke and colleagues have argued that the adoption by them of a ‘compliance’ orientated approach is problematically based on three faulty assumptions, namely a belief that asymmetrical power relationships invariably exist between buyers and suppliers; an assumption that audits can generate reliable information about labour conditions within factories, and a view that deterrence forms an effective motivation towards compliance (see e.g. Locke et al, 2009). They have consequently gone on to argue that an alternative, commitment-based approach might offer a potentially more productive means of securing improved working conditions (Locke et al, 2009; Locke, 2013). That is, one in which the causes of labour standard non-compliance are addressed through buyers and suppliers working to improve work processes, and associated labour practices, via joint, mutuality-based, problem solving processes.

As regards the second of the above categories of explanation, attention has been drawn to the way in which the private regulatory initiatives of multinationals may be influenced by local, state-based regulatory arrangements. It has been argued that private regulatory systems are not transcendent. Rather, they are intertwined thickly with domestic laws, codes and practices (Trubek & Trubek, 2007; Bartley, 2011; Berliner & Prakash, 2014). Eberlein et al (2014) have consequently contended that it is important to understand how interactions between private and public forms of regulation impact on regulatory capacity and performance. In this regard, three rather different perspectives have been articulated on how private and public regulatory systems can productively combine together. One of these emphasises the general virtues of some form of mutually supportive complementarity between them (Locke et. al, 2007; Locke & Romis, 2010; Locke, Rissing & Pal, 2013). A second embodies the view that the state must remain a key actor in labour regulation, because there is no substitute for the effective exercise of government authority. To be effective, private regulation must, from this

perspective, therefore operate within an environment in which regulation is effectively enforced (see e.g. Esbenshade, 2004; Vogel, 2010). Finally, a third argues that, instead of displacing the state as regulator, private regulatory regimes play an important role in developing and strengthening the capacity of the state (Kolben, 2007; Kolben, 2011).

Anner et al (2013) have meanwhile advanced a third, rather different, line of explanatory analysis. While accepting that existing approaches have failed to eliminate, or even substantially reduce, labour violations in global supply chains, they question whether this failure can be meaningfully addressed through a better mix of private and public regulation, the commitment-based approach advocated by Locke and colleagues, enhanced systems of audit/inspection or increased ethical consumer pressures; although they don't discount that each of them might yield some beneficial outcomes. In their view, this is because while current initiatives are informed by an acknowledgement of the central role of buyers in creating conditions that encourage labour violations, they are seen, in an echo of the arguments of Bartley and Kincaid (2016), to 'leave this root cause unaddressed' (Anner et al, 2013: 6-7). Drawing on a historical analysis of how collectively bargained contracts in the U.S apparel industry prompted a dramatic decline in sweatshop conditions during the middle part of the twentieth century, they argue that a more effective way forward would be to directly regulate the market behaviours of buyers that drive labour conditions in supplier factories, including via the creation of legal liabilities where there is a failure to comply with laid down standards (p.14).

Anner and colleagues recognise the enormous challenges involved in creating such regulatory frameworks. They, however, argue that the global labour movement 'appears to be coalescing around' the type of approach they advocate (Anner et al, 2013: 42). In fact, they argue that key features of The Accord lend weight to this view. In particular, they highlight at least four

key ways in which the agreement reflects core principles of the collective contracts that previously applied in the U.S apparel industry. These are:

- The way in which it regulates the buying practices of buyers by imposing on them requirements to fund safety improvements, to terminate business with non-cooperative factories, and to provide multi-year commitments to suppliers, thereby potentially providing greater contract stability;
- The role unions are accorded in its governance, as well as the provision made for safety committees, union inputs into training and the sharing of inspection reports with workers’ representatives;
- The contractually binding nature of the Accord’s provisions; and
- The fact that, through its signatory companies, the agreement covers a broad portion of the industry, thereby reducing the extent to which its operational costs put individual buyers at a competitive disadvantage (p.28, 29).

Their arguments concerning the distinctive nature of The Accord in turn suggests that an investigation of its operation provides a unique opportunity to evaluate a private regulatory initiative to improve labour condition in global supply chains operation that potentially enables the influence of all the above sources of influence to be taken into account. Consequently, in what follows, such an analysis is attempted in relation to the way in which The Accord’s inspection programme has operated.

The origins and nature of The Accord

The Bangladeshi garment industry has long been notorious for its unsafe working conditions (Chartier, 2008; Labowitz & Baumann-Pauly, 2014). Accidents have claimed the lives of two thousand workers since 2005. There has also been a litany of factory fires and building

1
2
3 collapses which have killed and maimed many workers, these including at Spectrum,
4
5 Phoenix, Gharib, Tasreen and, of course, Rana Plaza (Ahmed, Raihan & Islam, 2013; Islam
6
7 & Ahmed, 2014; Kurpad, 2014; Peetha, 2016).

8
9
10 Global brands in their capacity as purchasers have traditionally incorporated the issue of
11
12 health and safety into their promulgated labour standards and associated monitoring and
13
14 enforcement processes (Anner, et, al, 2013; Abernathy, Dunlop, Hammond & Weil, 1999).
15
16
17 The collapse of the Rana Plaza factory, however, prompted unprecedented international
18
19 efforts to improve health and safety in the Bangladeshi garment industry. One of the most
20
21 significant of the developments to occur was the signing of an agreement, The Accord on Fire
22
23 and Building Safety in 2013.

24
25
26
27 Concluded against the backcloth of concerted pressure from both GUFs and NGOs (Reinecke
28
29 and Donaghey, 2015), The Accord is a five-year legally binding and enforceable agreement
30
31 between global brands and global trade union federations to build a safe garment industry.
32
33 Disputes concerning its implementation are, in the first instance, submitted to the initiative's
34
35 steering committee (see further below) for initial adjudication. Its decision may then
36
37 subsequently be appealed to a process of binding arbitration.¹ The resulting award may be
38
39 enforced in the home country of the signatory party that is the subject of a complaint, in line
40
41 with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, a
42
43 convention commonly referred to as the New York Convention.

44
45
46
47 Under The Accord, brands commit to a range of measures designed to improve working
48
49 conditions in the factories which supply them. It covers approximately 1,800 factories and
50
51 two million workers, half of the Bangladeshi garment workforce. The Accord has been signed
52
53 by over 200 apparel brands, retailers and importers from more than 20 countries in Europe,
54
55 North America, Asia and Australia (<http://bangladeshaccord.org/signatories/#witness-box>).
56
57
58
59
60

Meanwhile, a number of other (predominantly North American companies) chose not to join and instead launch a parallel, but less onerous safety initiative, called The Alliance (<http://www.bangladeshworkersafety.org/>).²

Governance of Accord affairs and its small implementation staff is via a steering committee consisting of three trade union representatives, three company representatives and an ILO chair. An advisory board includes Bangladeshi government representatives, and an executive director and safety inspector oversee safety improvement and worker participation programmes. Central to The Accord is the establishment of a system of private workplace inspections. Under this, global brands commit to (i) require supplier factories to submit to rigorous safety inspections (Article 9), (ii) accept public disclosure of inspection reports (Article 11), (iii) require suppliers to implement repairs and renovations necessary to make their factories safe (Article 12), (iv) pay suppliers prices sufficient for them to afford necessary repairs and operate safely (Article 22), and (v) cease doing business with suppliers failing to comply with any of the above requirements (Article 21).³

The impact of The Accord on factory safety in garment factories in Bangladesh is therefore, in large part, related to how far its inspection system has generated positive outcomes. In the analysis below, we address our two central research questions through an evaluation of this system's operation.

The Accord's inspection programme in action

In order to examine the operation of The Accord's programme of factory inspections, we draw on both primary and secondary data. In the case of the latter, use is made of statistics published on The Accord's website that shed light on the scale and operation of its workplace inspection programme. In particular, these statistics are utilised to (i) detail the number of

1
2
3 inspections undertaken, (ii) evaluate their outcomes e.g. numbers of workplaces where
4
5 improvements were recommended or closures occurred on safety grounds or as a result of a
6
7 failure to cooperate with the making of improvements, (iii) the aggregate number of
8
9 improvements required, and (iv) the progress that has been made in making them.
10

11
12 As regards the primary data collection, we draw on 23 interviews (face-to-face, skype,
13
14 telephone) conducted with 18 stakeholders in the Bangladeshi garment industry. These
15
16 respondents encompass representatives from The Accord (2), global brands (3), non-
17
18 governmental organisations (4) and global unions (3), a senior national trade union leader (1),
19
20 health and safety professionals (2), an academic researcher (1), and officials from the
21
22 Bangladesh Garment Manufacturers and Exporters Association (BGMEA) (2). Some of them
23
24 were interviewed more than once. Several global brands and officials from the BGMEA
25
26 declined our invitation to participate. Interviews were conducted between October 2014 and
27
28 February 2016. They were recorded, transcribed and analysed thematically and respondents
29
30 invited to clarify or supplement their responses.
31
32
33
34

35
36 In presenting our findings, we first detail the statistical data compiled by The Accord in order
37
38 to paint an essentially descriptive picture of the operation of its inspection programme. We
39
40 then draw upon the qualitative interview data collected to provide further insights into how
41
42 the programme has been operating and the factors which have been influencing it. It is
43
44 acknowledged that this means that interview data precedes statistical data by some months.
45
46 This, though, is felt to be defensible on presentational and analytical grounds and also
47
48 because a similar picture would have emerged if use was made of earlier sets of operational
49
50 statistics.
51
52
53
54
55
56
57
58
59
60

The quantitative picture

Under The Accord’s inspection programme, each factory is the subject of independent inspections of their fire, electrical and structural safety. Initial inspections are conducted by international engineering firms contracted by The Accord. After each inspection, a report is produced detailing its findings, including required remedial actions and timelines within which these should be carried out (so called “Corrective Action Plans”). A team of over 100 permanent Accord staff engineers then conduct up to 500 follow-up inspections each month, meaning that each Accord factory is currently inspected once every three to four months (The Accord, 2016; 4). Where such inspections are undertaken, a detailed report is produced and the relevant Corrective Action Plan updated. This report is sent not only to the factory concerned but also to the related brand and union signatories (The Accord, 2016: 6).

Defects identified during inspections are each given a deadline for their remediation. These deadlines range from ‘immediate’, for repairs and renovations that can be done in a matter of hours or days, to up to one year for more complex improvements. Where suppliers are failing to adequately progress improvements, they potentially face, under Article 21 of the Accord, a process of escalating warnings and notices that can ultimately lead to business with them being terminated (The Accord, 2016: 12).

For each factory inspected, The Accord website:

1. Identifies the (often very extensive) improvements needed;
2. Provides its Corrective Action Plan (CAP), which outlines not only the actions required but the timelines applying to the undertaking of them, as well as a supporting financial plan signed off by factory owner and the purchasing brand;
3. Details progress on implementing this plan; and

4. Indicates whether or not financial help is being provided to enable remediation to be carried out (<http://bangladeshaccord.org/factories/list-factories/>)

The Accord's website provides that, as of October 2016, initial inspections had been undertaken in 1551 factories (The Accord, 2016: 5) and that, by the end of June 2016, there had been 4098 follow-up inspections (The Accord, 2016: 12). It further indicates that escalation measures had been applied to 472 suppliers and that in 41 cases business had been terminated with suppliers (The Accord, 2016: 4).

It is nevertheless acknowledged that processes of remediation are often running considerable behind laid down deadlines (see Table 1 and 2 below).

Table 1: Rate of Progress (as of October, 2016)

Table 2: Progress levels in factories behind schedule

At the same time, Tables 3 and 4 highlight that substantial numbers of improvements have been both identified and implemented through both initial and subsequent follow-up ones. Indeed, in total, the figures provided show that nearly 120,000 safety defects have been identified through such inspections, and that over 60,000 of these have been verified as having been remedied. Moreover, as Table 2 highlights, in nearly 1200 factories, between half and all required improvements have been implemented.

Table 3: Progress on improvements arising from initial inspections (information as of October, 2016)

Table 4: Progress on improvements arising from follow-up inspections (information as of October, 2016)

How far financial support has been provided under the terms of The Accord to help factories make required safety improvements is unfortunately less clear. As part of every Corrective Action Plan, signatory companies and their suppliers are required to confirm that a remediation finance plan is in place. By the end of October 2016, 1361 such plans had been reported. On the basis of these reports, it appears that in 55 cases brands are providing financial assistance. However, The Accord reports that both labour and company signatories agree that in reality, such support is being more widely provided; although they disagree on the ‘question of whether and to what extent factories need financial assistance but are not receiving it, and whether that is a major cause for delays in remediation’ (The Accord, 2016: 15).

Qualitative insights

On the basis of these statistics, there would seem little doubt that The Accord is having a widespread and significant impact on factory safety, as regards fire, electrical and structural matters. Those interviewed offered confirmation of this:

SBT (a pro-union expert) argued (5, January 2016):

“Technical improvements in factories, the correct standards for building safety, electrical safety, and fire safety are finally being rolled out in factories. That's the change. And that has been done because brands have supported it...Rana has provided...that critical weight, to bring about those kinds of changes. And brands have really given attention to those kinds of issues. So you can say now that factories are safer...there is less likely to be fires, less likely to collapse (sic).”

1
2
3 X (19, December, 2014), from The Accord, reported that factory owners had spent millions of
4
5 dollars on fire safety, sprinkler systems, updating electrical connections, etc. He reported on
6
7 the basis of verified evidence that “80% of factories are doing something, they are moving”.

8
9
10 G (Interview: 30, March, 2015), a western occupational health and safety professional
11
12 working with The Accord, commended the progress made since The Accord came into effect:

13
14
15 “...first time in which many factories even got inspected...500 corrective action plans which
16
17 have been approved and so you have someone to pay for remediation and you have a
18
19 plan...other corrective action plans under review...another 250 initial inspections in 2015. So
20
21 these are tremendous advances”

22
23
24 Last but not least, V (20, March, 2015), a signatory brand representative, suggested that the
25
26 situation had changed greatly. In the past, “electrical equipment... was not being taken care
27
28 of...cables left hanging around.... You go into a factory today and visually, you can see that
29
30 it's being taken care of”. She went on to further remark that, previously, factory owners did
31
32 not think that safety was important, it was “just how things were...”, but now they understood
33
34 what caused fires and realised that their causes needed to be addressed.
35
36

37
38
39 A number of respondents attributed these positive outcomes to the legally binding character
40
41 of The Accord. WW (6, March, 2015), for example, explained that brands can now no longer
42
43 justify their voluntary approach to helping supplier factories, based on CSR rhetoric. The
44
45 only way to securing improvements in safety in factories is through brands observing legally
46
47 binding commitments:
48
49

50
51 “The Accord is a departure from this [voluntary] culture, we are trying to drag brands and
52
53 retailers into a different kind of thinking. It is going to take a great deal of time, which is why
54
55 it is legally binding, because we understand that things will change only through constant
56
57 pressure and over an extended length of time.”
58
59
60

Global unions were also reported to have resorted to the Accord’s legal mechanisms to bring some brands back into line (Allchin & Kazmin, 2015). G (30, March, 2015) confirmed that unions were preparing to file arbitration cases against several brands, who were failing to comply with their obligations. At the time of writing, no public announcements have been made. G suggested that this ought not to be viewed negatively since unions were using the threat of legal proceedings to spur action on the part of brands.

These last observations were in turn advanced against the backcloth of criticisms of the brands’ reticence to fund safety improvements and their failure to change their approaches towards the pricing of supply contracts, despite Article 22 of The Accord requiring them to ensure that it was financially feasible for factories to maintain safe workplaces and comply with safety upgrade requirements. For example, S (10, November, 2014), a GUF respondent, noted:

‘The brands have failed to deliver their full financial contributions due under the terms of The Accord. [Even] a contribution of a fraction of 1% of the global brands’ annual turnover would comfortably secure all of the necessary funds’

Meanwhile, F (21, March, 2015), a BGMEA respondent, observed:

‘...so when the building collapsed everybody said “you’re at fault”, like to us, you’re at fault but hold on, if you felt so judgemental about the whole thing, then maybe you should pay us a little more! Instead, our buyers continue to threaten us, saying, if you don’t want to take our orders, we will go elsewhere cheaper. But factories cannot produce cheaper without cutting corners on workers’ rights.’

1
2
3
4
5 Respondents also drew attention to how a ‘CSR-based’ interpretation by brands of their
6 responsibilities under The Accord had a negative impact in this regard. WW (6, March, 2015)
7 remarked:
8
9

10
11
12
13
14 *‘The fact that you have brands which have a legal obligation to help factory*
15 *owners, still using rhetoric which derives from CSR culture of voluntarism, is not*
16 *surprising. It is annoying, but it is predictable...What matters is that factories get*
17 *fixed, which will not happen if brands do not provide some form of financial*
18 *assistance.’*
19
20
21
22
23
24
25
26

27 It was further apparent that Bangladesh government support for The Accord was of a
28 qualified nature, notwithstanding institutional appearances to the contrary.
29
30
31
32
33

34 Government departments and official bodies in Bangladesh initially supported The Accord’s
35 aims in conjunction with increased government efforts to prevent accidents. It adopted a
36 National Action Plan on Fire Safety and Structural Integrity, a National Occupational Safety
37 and Health Policy and a revised Labour Act (Rahman, 2014). A task force on Building and
38 Fire Safety for the garment sector, a hot line for reporting fire accidents and a publicly
39 accessible database on safety issues in garment factories were also established. In addition,
40 dozens of posts were created for fire inspectors to enforce safety standards in factories
41 outside The Accord. In turn, The Accord has affirmed and supported state initiatives on fire
42 and building safety. The fire, electrical and building inspection standards utilised for the
43 inspections of Accord factories are largely based on the Bangladesh National Building Code
44 and are the product of discussions between The Accord, the National Tripartite Plan of
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Action, and the Alliance for Bangladesh Worker Safety (Alliance), initiated and facilitated by the International Labour Organisation (<http://bangladeshaccord.org/building-standards/>). Furthermore, the Accord engages with the government through its Advisory Board, as noted earlier, through direct contact with officials and through its relations with the Bangladesh University of Engineering and Technology, which supports the government in its factory inspections (Articles 6, 7).

Notwithstanding these various forms of apparently mutually supportive collaboration, a common theme raised by respondents, however, was how hostility towards The Accord on the part of many factory owners privately received support from the government in a context in which 50% of politicians are associated with the garment industry, primarily via ownership. Additionally, the government is heavily dependent on funding from business (B, 23, October, 2014; X, 19, December, 2014). One respondent from The Accord, for example, reported how it was viewed by government officials as “a bunch of cowboys” (X, 19 December, 2014). He further referred to a recent well-publicised “expo” on health and safety in Bangladesh. Immediately before the expo, the Prime Minister declared in a cabinet meeting “We have our own programme, so...you do not need to prioritise...The Accord”. In a similar vein, representatives of global brands (N, 24 February, 2015; P, 4 March, 2015) argued that the government lacked a political will to improve safety. They criticised state policy in practice, arguing that in reality domestic regulations on safety governance were never enforced. More generally, according to SBT (5 January, 2016), the government has made it clear it does not want to prolong participation in the Accord after its five-year term comes to an end.

Unions, as key pressure groups, continue to operate in a very hostile environment, despite reform of domestic labour laws to enable workers to form unions more freely (Rahman, 2014). P (4 March, 2014) cautioned that a “pathological hatred for unions” remained among

1
2
3 employers, while WW (6 March, 2015), argued that the government ignored employers'
4
5 violent anti-union tactics. Such views have received external support. The International
6
7 Labour Rights Forum (2014) has reported continuing anti-worker violence in the garment
8
9 industry, noting governmental failures to address serious rights violations. It also claims that
10
11 government ministers have personally intimidated labour activists, calling for action against
12
13 those reporting violence on labour organisers and suggesting that they were acting against
14
15 Bangladeshi interests. Such concerns have more led the ITUC and European TUC, along with
16
17 Global Union Federations UNI and IndustriALL and their European regional bodies, to write
18
19 to the European Commission (ITUC-CSI-IGB, 2015) calling on it to step up action as anti-
20
21 union repression in Bangladesh had increased.
22
23
24
25
26
27
28

29 **Discussion**

30
31
32 On the basis of the presented findings, it is clear that the achievements of The Accord cannot
33
34 easily be dismissed. With the exception of a small number of new supplier factories,
35
36 inspections have been undertaken in all relevant factories and an extensive programme of
37
38 follow-up ones is in place. It is further clear that these inspections have identified a vast
39
40 number of electrical, fire and structural safety defects and that many of these have been
41
42 remedied.
43
44
45
46

47
48 At the same time, the operation of The Accord's inspection programme can be seen to have
49
50 embodied problematic features and therefore, highlights the challenges that attempts to
51
52 improve labour standards at the end of buyer-led supply chains face. In many cases, progress
53
54 on remedying identified safety defects has been slow and certainly outside laid down
55
56 deadlines, while almost 10 per cent of covered factories have been subjected to The Accord's
57
58
59
60

1
2
3 system of warnings and notices because of their lack of commitment to implementing the
4
5 safety improvements deemed necessary as a result of inspections. In addition, business with
6
7 some 40 factories has been terminated on the grounds of their lack of cooperation.
8

9
10 Meanwhile, although it remains unclear how far buyers are providing financial support to
11
12 help make required improvements, tensions between the improvement of safety and the
13
14 financial objectives of buyers would seem to exist, both in relation to the continuation of
15
16 existing pricing models and differing perceptions among union and company signatories
17
18 regarding the provision of such support. Furthermore, against the backcloth of the political
19
20 influence wielded by factory owners, it is apparent that the support provided by the
21
22 Bangladesh government to The Accord is very much of a qualified nature, notwithstanding
23
24 that representatives of the government sit on The Accord's advisory board and hence form
25
26 part of its governance arrangements.
27
28
29
30
31

32 It must be further admitted that the statistical data provided on the outcomes of The Accord's
33
34 inspection programme cannot unquestionably be said to show that the safety of workers in the
35
36 inspected factories has improved and hence that The Accord has been effective. The only
37
38 reliable test of this is whether it becomes apparent overtime that fires and building collapses
39
40 have become significantly less common.⁴ This said, the standards against which these defects
41
42 have been identified were agreed in ILO initiated and facilitated discussions between the
43
44 Accord, the NTPA and the Alliance for Bangladesh Worker Safety. As a result, they were
45
46 agreed by both local and global union representatives and hence, at a minimum, seem
47
48 unlikely to fall significantly below internationally acceptable standards. This in turn logically
49
50 suggests that Accord inspections are acting to identify many (although not necessarily all) of
51
52 the main risks concerned.
53
54
55
56
57
58
59
60

1
2
3 This apparently positive picture of achievement clearly offers some confirmation for the view
4
5 that private regulatory initiatives can serve to improve labour conditions in global supply
6
7 chains. In doing so, it also brings us back to the question posed at the beginning of the paper
8
9 about how its operation has been impacted by the various factors that existing literature
10
11 suggests are important in shaping the outcomes of private regulatory initiatives. On the basis
12
13 of the collected data, it cannot be claimed that this question can be definitely answered.
14
15 Nevertheless, they do enable a number of conclusions to be drawn with varying degrees of
16
17 confidence regarding the respective roles of the three categories of explanatory factors
18
19 identified earlier: the nature and extent of *voluntaristic sources of compliance*, the degree of
20
21 supporting state-based *legal regulation*, and how far *markets are institutionally configured* to
22
23 support the adoption of laid down labour standards through the procurement practices of
24
25 buyers.
26
27
28
29
30
31

32 In the case of the first of these, it would seem unquestionable that the horrific nature of the
33
34 Rana Plaza disaster and the public/consumer pressures it generated to do something about
35
36 working conditions in Bangladesh garment factors played a crucial role in the establishment
37
38 of The Accord and its unique form as a joint company-union collaboration involving a
39
40 collectivity of brands (Reinecke and Donaghey, 2015). Its creation therefore adds clear
41
42 weight to the view that the development of such initiatives generally stem from wider social
43
44 pressures that act to prompt a recognition among buyers of the need to be seen to be trying to
45
46 counter some of the adverse labour effects flowing from their market-driven supply
47
48 relationships.
49
50
51
52
53

54 Insofar as the Accord's compliance-orientated inspection programme has been effective in
55
56 reducing the risks of fires and building collapses, this impact cannot logically be divorced
57
58
59
60

1
2
3 from the fact that its resourcing has been sufficient to support the appointment of an
4
5 international consultancy to conduct initial inspections of all factories and the carrying out of
6
7 regular follow-up inspections by a current complement of over 100 engineering inspection
8
9 staff. The programme’s operation therefore draws attention to the point that the impact of
10
11 private regulatory initiatives is likely to be tied up with the issue of the resources devoted to
12
13 their implementation. It further acts to raise an important qualification concerning Locke’s
14
15 critique of compliance-based regulation, namely that it largely side-steps this issue of
16
17 resources and therefore the possibility that part of its apparent problematic impact stems from
18
19 the fact that it has frequently not been adequately resourced. In doing so, the programme’s
20
21 operation arguably suggests that the scope for compliance, as opposed to commitment, based
22
23 enforcement mechanisms to generate improvements in labour standards may be greater than
24
25 Locke and his colleagues suggest.
26
27
28
29
30
31

32 As regards the argument that the effectiveness of private regulatory initiatives is influenced
33
34 by the degree to which they receive support from surrounding state-based legal regulation,
35
36 the findings obtained do not rule out that such complementarity can be beneficial. They do,
37
38 however, suggest that the presence of such support is not necessarily crucial. Thus, a striking
39
40 feature of the outcomes of The Accord’s inspection programme is that they were achieved
41
42 against the backcloth of a very mixed and qualified degree of support from the Bangladesh
43
44 government and with no direct involvement of government inspectors.
45
46
47
48

49 Finally, as to the argument of Anner et al (2013) relating to the need for global supply
50
51 initiatives to address ‘the root cause’ of problematic labour conditions, namely the buying
52
53 practices of buyers, it is not possible to conclusively demonstrate on the basis of the collected
54
55 data how far, and through what means, all of the characteristics listed on page 7 have
56
57
58
59
60

1 contributed to The Accord's positive outcomes. However, and notwithstanding the reported
2
3 problems and disagreements surrounding the provision of financial assistance by brands to
4
5 support safety improvements, it is hard to believe that the joint nature of its founding
6
7 agreement, and the transparency that has flowed from it, have not served to enhance the
8
9 priority accorded to safety related matters and associated expenditure. Particularly when the
10
11 role that reputational considerations played in The Accord's establishment is borne in mind
12
13 (Reinecke & Donaghey, 2015). Thus, The Accord's commitment to put on its website all
14
15 inspection reports and to detail progress in implementing their recommendations has served
16
17 to provide much scope for unions and pressures groups to monitor whether safety
18
19 improvements are carried out with sufficient urgency. Indeed, it was concerns over the slow
20
21 progress being achieved that led The Accord to expand the number of inspection staff to its
22
23 current level. In this regard, the operation of The Accord can be contrasted with the
24
25 difficulties that pressure groups have faced in assessing progress in making safety
26
27 improvements in factories supplying companies forming part of the Alliance, where it has
28
29 only been possible to gain insights into this by drawing on data from factories inspected
30
31 under The Accord that are also used by signatory companies of the Alliance (International
32
33 Labour Rights Forum, et al, 2016).

34 It can consequently be argued that neither Locke, in his critique of compliance-based
35
36 regulation, nor Anner and colleagues, in their advocacy for a contract-based approach to joint
37
38 brand liability, have accorded sufficient weight to the role that transparency can play in
39
40 supporting the implementation of private regulatory initiatives. This view is given added
41
42 weight by studies concerning the role that transparency has played in supporting the
43
44 operation of other private regulatory initiatives and the factors that influence the extent to
45
46 which it has done so. For example, research by Auld & Gulbrandsen (2010, 2014) on the
47
48 operations of the Forest Stewardship Council and the Marine Stewardship Council, found that
49
50
51
52
53
54
55
56
57
58
59
60

that transparent processes (granting ultimate decision-making authority to members, open engagement with stakeholders, publishing assessment reports, and increasing the online disclosure of audit outcomes) improved both their legitimacy and accountability. Meanwhile, in an empirical analysis of levels of transparency in 143 regulatory standard-setting programmes in the field of transnational sustainability, Schleifer et al found transparency to be positively correlated with multi-stakeholder initiatives (with NGOs and public actors) and those in which meta-governance organisations promote an overarching normative framework for transnational rule-making (Schleifer, Fiorini & Auld, 2017). Together, such findings suggest that future research on The Accord could usefully focus more detailed attention on how its operation has been influenced by its systems of internal governance and information disclosure, including the manner in which they mutually interact.

The differing perceptions of signatory unions and companies about how far brands are funding safety improvements also usefully illustrates the way in which The Accord, as Anner and colleagues have argued, departs from the unilateral nature of much multinational supply chain action. Furthermore, it should not be forgotten that another consequence of The Accord has been the establishment of a regime of safety inspection under which factories supplying over 200 brands are required to comply with a common set of requirements in the areas of electrical, fire and structural safety and which therefore acts to limit their capacity to accommodate cost-cutting pressures by cutting corners on safety. Moreover, this feature is effectively reinforced by the fact that factories are often supplying a number of different Accord signatory companies and so potentially similarly reduces the ability of brands to competitively drive down the prices they pay.

Given the above analysis, it would seem reasonable to argue that, through a combination of the four features listed on page 7, The Accord does to some extent provide a platform through which 'root cause' market dynamics can be addressed. This view is furthermore reinforced by the fact that although the legal enforcement mechanisms of The Accord have so far not been formally utilised, many of those interviewed did allude to the significance of its legally-binding nature. It may, therefore, be that the lack of formal legal action conceals how it has been used as a threat to bring recalcitrant brands into line.

While, then, it cannot be claimed that the study's findings offer firm confirmatory support to the arguments advanced by Anner and colleagues, they do suggest that they cannot sensibly be disregarded. There would seem a consequent need for them to be subjected to more detailed evaluation via a more in-depth and broader evaluation of The Accord in which all its constituent elements, including its systems of governance and information disclosure, are examined to identify their individual and combined effects. . This is particularly so given that at least some of those involved in the development and governance of The Accord believe it to have had a positive effect and to be financially viable in the longer term. Thus, while the BGMEA only favours an extension to its tenure beyond May 2018 as a 'monitoring team' (New Age Business, 2017), more than 20 brands and the UNI and IndustriALL global unions have, subsequent to the research reported here, recently agreed a follow-on Accord agreement (Industriall, 2017a), which it is anticipated will eventually be signed by many more brands. Already, however, it is estimated that the new agreement will extend to cover over a thousand garment factories (The Accord, 2017; Industriall, 2017b).⁵ Furthermore, in the build up to the July 2017 G20 summit in Hamburg, a number of global unions called on participants to look to The Accord as a model for promoting sustainable business practices. The Deputy Secretary of UNI Global Union, for example, observing that its 'model of accountability and

transparency works’ (<http://passport.uniglobalunion.org/news/global-unions-urge-world-leaders-elevate-example-bangladesh-accord>).

Conclusion

This paper has sought to cast further light on the role of the various factors that have been argued to affect the development and operation of private regulatory initiatives aimed at protecting and enhancing the working conditions of those labouring at the end of global supply chains. To this end, it has drawn on a combination of primary and secondary data on the operation of the 2013 Accord on Fire and Building Safety to address how far its programme of workplace inspections has acted as a source of safety improvement and to what extent its operation, in this regard, has been influenced by factors which the literature suggests are important in determining the outcomes of private regulatory initiatives.

The findings obtained lend weight to the view that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. In doing so, they caution against discounting the role that compliance-orientated enforcement strategies can play in supporting the implementation of laid down labour standards, while also drawing attention to the importance of their adequate resourcing and, critically, the transparent nature of monitoring processes. They also lend more tentative weight to the argument that the effectiveness of such regulatory initiatives would be enhanced if they focussed attention on mediating the market dynamics that act to undermine the provision of decent working conditions.

References

Abernathy FH, Dunlop JT, Hammond JH, Weil D (1999) *A Stitch in Time: Lean Retailing and the Transformation of Manufacturing - Lessons from the Apparel and Textile Industries*. Oxford: Oxford University Press.

Allchin J, Kazmin A, (2015) “Unions censure western brands over Bangladesh factory safety delays”, 1 October, at <https://www.ft.com/content/7a3822e6-6804-11e5-a155-02b6f8af6a62> (accessed 31, March, 2017)

Ahmed, S. Raihan, MZ. & Islam, N. (2013) “Labour Unrest in the Ready-Made Garment Industry of Bangladesh” *International Journal of Business and Management*; 8, 15, 68-80

Alston P (2004) Core Labour Standards and the Transformation of the International Labour Rights Regime. *European Journal of International Law* 15(3), 457-521.

Anner, M. (2012) “Corporate Social Responsibility and Freedom of Association Rights: The Precarious Quest for Legitimacy and Control in Global Supply Chains,” *Politics & Society*, 40, 4, 609-644.

Anner M, Bair J, Blasi, J (2013) Toward joint liability on global supply chains: Addressing the Root Causes of Labour Violations in International Subcontracting Networks. *Comparative Labour Law and Policy Journal* 35, 1-43.

Auld, G. & Gulbrandsen, L. (2010) “Transparency in Nonstate Certification: Consequences for Accountability and Legitimacy” *Global Environmental Politics*, 10, 3, 97-119

Auld, G. & Gulbrandsen, L. (2014) “Learning through Disclosure: The Evolving Importance of Transparency for Nonstate Certification” in: Aarti Gupta and

Michael Mason, Transparency in Global Environmental Governance: Critical Perspectives, pp 271-296. MIT Press: Cambridge

Bartley T (2011) Transnational Governance as the Layering of Rules: Intersections of Public and Private Standards. *Theoretical Inquiries in Law* 12(2), 517-542.

Bartley, T, Kincaid, D (2016) “The Mobility of Industries and the Limits of Corporate Social Responsibility: Labor Codes of Conduct in Indonesian Factories” in (eds) Tsutsui, K, Lim, A. *Corporate Responsibility in a Globalizing Worlds: Global Dynamics and Local Practices*, Cambridge, Cambridge University Press, pp. 393-429.

Berliner D, Prakash A (2014) Public Authority and Private Rules: How do Domestic Regulatory Institutions shape the adoption of global private regimes. *International Studies Quarterly*, 58, 4, 793-803

Braithwaite J, Drahos P (2000) *Global Business Regulation*. Cambridge: Cambridge University Press.

CPD RMG Study 2016, (2017), “Accord’s work not to be finished by 2018” 8, May, 2017 at <http://rmg-study.cpd.org.bd/77pc-rmg-factories-meet-accord-requirements/> (accessed 28, June, 2017)

Chartier G (2008) Sweatshops, Labour Rights and Competitive Advantage. *Oregon Review of International Law*, 10, 149-188

Eberlein B et al (2014) Transnational Business Governance Interaction: Conceptualisation and Framework for Analysis. *Regulation & Governance*, 8, 1, 1-21

Esbenshade J (2004) Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry. Temple University Press, Philadelphia, PA.

Gereffi G, Humphrey J, Sturgeon T (2005) The Governance of Global Value Chains. *Review of International Political Economy* 12(1), 78-104.

Graham D, Woods N (2006) Making Corporate Self-Regulation Effective in Developing Countries. *World Development* 34(5), 868–883.

Heintz J (2002) *Global Labor Standards: Their Impact and Implementation*. Working Paper 46, Political Economy Research Centre, University of Massachusetts.

Industriall, (2017a) “Signatories to the 2018 Accord” 10 July, 2017, at <http://www.industriall-union.org/signatories-to-the-2018-accord> (accessed 26, July, 2017)

Industriall, (2017b) “Leading fashion brands join with unions to sign new Bangladesh Accord on Fire and Building Safety” 29.06.2017, at <http://www.industriall-union.org/leading-fashion-brands-join-with-unions-to-sign-new-bangladesh-accord-on-fire-and-building-safety> (accessed 26, July, 2017)

International Labour Rights Forum (2014) Progress in Bangladesh? July, at <http://www.laborrights.org/blog/201407/progress-bangladesh> (accessed 1 November, 2015)

International Labour Rights Forum, et al (2016) “Dangerous Delays on Worker Safety” November, at <https://cleanclothes.org/resources/publications/dangerous-delays-on-worker-safety> (accessed 31, March, 2017)

Islam N, Ahmed S (2014) Socio-Economic Factors and Labour Unrest in Ready –Made Garment Industry of Bangladesh. *Journal of Education Research and Behavioural Sciences*, 3, 2, 65-74

ITUC-CSI-IGB (2015) *Bangladesh: Business as Usual as Garment Brands Stall Progress*.
March. [Last accessed 1 Nov 2015.] Available from URL: <http://www.ituc-csi.org/bangladesh-business-as-usual-as>

James P, Johnstone R, Quinlan M and Walters D (2007) Regulating Supply Chains to Improve Health and Safety. *Industrial Law Journal* 36 (2), 163-187.

James P, Walters D, Sampson H. and Wadsworth E (2015) Regulating the Employment Dynamics of Domestic Supply Chains. *Journal of Industrial Relations* 57(4), 526-543.

Kolben K (2007) Integrative Linkage: Combining Public and Private Regulatory Approaches in the Design of Trade and Labour Regimes. *Harvard International Law Journal* 48(1), 203–256.

Kolben K (2011) Transnational Labour Regulation and The Limits of Governance. *Theoretical Inquiries in Law* 12(2), 403–437

Kurpad MR (2014) Made in Bangladesh: Challenges to the RMG Industry. *Journal of International Trade Law and Policy*, 13, 1, 80-96

Labowitz S, Baumann-Pauly, D (2014) Business as Usual is Not an Option, *Center for Business and Human Rights at NYU Leonard N. Stern School of Business*, 1-65

Locke R, Kochan T, Romis M, Qin F (2007) Beyond Corporate Codes of Conduct: Work Organisation and Labour Standards at Nike’s Suppliers. *International Labour Review* 146(1-2), 21–40

Locke R, Amengual M, Mangla, A. (2009) Virtue out of Necessity? Compliance, Commitment, and the Improvement of Labour Conditions in Global Supply Chains. *Politics & Society*, 37(3), 319-351

- 1
2
3 Locke R, Romis, M (2010) The Promise and Perils of Private Voluntary Regulation: Labour
4 Standards and Work Organisation in two Mexican Garment Factories. *Review of International*
5
6
7 *Political Economy*, 17(1), 45-74
8
9
10 Locke R, Rissing B, Pal T (2013) Complements or Substitutes? Private Codes, State
11 Regulation and the Enforcement of Labour Standards in Global Supply Chains. *British*
12
13 *Journal of Industrial Relations* 51(3), 519-552.
14
15
16
17
18 Locke R (2013) The Promise and Limits of Private Power, Promoting Labour Standards in a
19
20 Global Economy. Cambridge University Press, New York.
21
22
23 Luce S (2005) *The Case for International Labour Standards: A “Northern” Perspective*. IDS
24
25 Working Paper 250. Brighton: University of Sussex.
26
27
28 New Age Business, (2017), “Accord can stay beyond 2018 as monitoring team: BGMEA” 25,
29
30 June, 2017 at [http://www.newagebd.net/article/18531/accord-can-stay-beyond-2018-as-](http://www.newagebd.net/article/18531/accord-can-stay-beyond-2018-as-monitoring-team-bgmea)
31
32 [monitoring-team-bgmea](http://www.newagebd.net/article/18531/accord-can-stay-beyond-2018-as-monitoring-team-bgmea) (accessed 28, June, 2017)
33
34
35 O’Rourke D (2003) Outsourcing Regulation: Analysing Non-governmental systems of
36
37 Labour Standards and Monitoring. *The Policy Studies Journal* 31(1), 1–30.
38
39
40 Piore M, Shrank A (2008) “Toward Managed Flexibility: The Revival of Labour Inspection in
41
42 the Latin World” *International Labour Review*, 147(1), 1-23.
43
44
45 Rahman Z (2014) Accord on Fire and Building Safety in Bangladesh”: A Breakthrough
46
47 Agreement? *Nordic Journal of Working Life Studies*, 4(1) 69-74.
48
49
50 Reinecke J, Donaghey J (2015) After Rana Plaza: Building Coalitional Power for Labour
51
52 Rights Between Unions and (Consumption-Based) Social Movement Organisations.
53
54
55
56
57
58
59
60

Riisgaard L, Hammer N (2011) Prospects for Labour in Global Value Chains: Labour Standards in the Cut Flower and Banana Industries. *British Journal of Industrial Relations*, 49(1), 168-190.

Robinson I, Meyer R, Kimerldorf H (2013) “The Strength of Weak Commitments: Markets Contexts and Ethical Consumption” in (eds.) Bair, J. Dickson, M. & Miller, D. Workers’ Rights and Labour Compliance in Global Supply Chains: Is a Social Label the Answer, New York, Routledge, pp. 140-163.

Schleifer, P. et. al. (2017) “Transparency in Transnational Sustainability Governance: A Multivariate Analysis of Regulatory Standard-Setting Programs” EUI Working Paper RSCAS 2017/16, available at file:///C:/Users/Home/Downloads/SSRN-id2934140.pdf (accessed 28, June, 2017).

The Accord, (2016) Quarterly Aggregate Report, at <http://bangladeshaccord.org/wp-content/uploads/Quarterly-Aggregate-Report-31-October-2016.pdf> (accessed 31, March, 2017).

The Accord, (2017) “Press Release New Accord” 29, June, 2017 at <http://bangladeshaccord.org/2017/06/press-release-new-accord-2018/> (accessed 26, July, 2017).

Toffel M, Short J, Oullett M (2015) Codes in Context: How States, Market`s and Civil Society Share Adhere to Global Labour Standards. *Regulation & Governance*, 9, 3, 205-223.

Trubek D, Trubek L (2007) New Governance and Legal Regulation: Complementarity, Rivalry or Transformation. *Columbia Journal of European Law* 13, 539-564.

Vogel D (2008) Private Global Business Regulation. *Annual Review of Political Science*, 11, 261-282.

Vogel D (2010) The Private Regulation of Global Corporate Conduct: Achievements and Limitations. *Business and Society* 49(1), 68-87.

Walters, D, Quinlan, M, Johnstone, R. and Wadsworth, E (2016) Cooperation or Resistance? Representing Workers' Health and Safety in a Hazardous Industry. *Industrial Relations Journal*, 47(4), 379-395.

Notes

¹ It is specified that the process for selecting the arbitrator will be governed by the UNCITRAL Model Law on International Commercial Arbitration 1985.

² There are several differences between The Accord and The Alliance. The Accord is an agreement between global unions, on the one hand, and global brands and retailers, on the other. The Alliance is an agreement between global brands and retailers only; it is a corporate-led initiative. In addition, whilst it is a contractual requirement to do so under The Accord, The Alliance does not require members to pay for remediation. Thirdly, under The Accord, worker representative organisations may take enforcement action. Under The Alliance, workers cannot enforce the agreement although they can report any breach to the companies. Last but not least, The Accord requires a much higher level of transparency from global brands and retailers about the progress of repairs. See <https://cleanclothes.org/news/2016/11/21/alliance-for-bangladesh-worker-safety-overstates-progress-while-workers-lives-remain-at-risk>

³ As noted earlier, these provisions existing alongside others which, among other things, impose an obligation on buyers to make an initial two-year commitment to purchase at current volumes from suppliers, and lay down requirements on training (including inputs from union representatives), the establishment of safety committees and worker representation more generally.

⁴ This point arguably takes on even greater significance in relation to the impact of other elements of The Accord such as the requirements laid down with regard to the provision of training and the establishment of safety committees. Thus, it cannot simply be assumed that actions in these areas will lead to improved standards of safety protection. The evidence on the factors which influence the effectiveness of safety committees, for example, illustrates this point well (see e.g. Walters et al, 2016).

⁵ The text of the new agreement can be obtained at :(<http://bangladeshaccord.org/wp-content/uploads/2018-Accord-full-text.pdf>)

Table 1: Rate of Progress (as of October, 2016)

Time since initial inspection	Number of factories behind schedule*
More than 1.5 years	1268
Between 1.5 and 1 year	19
Between 1 year and 0.5 year	87
Less than 0.5 year	14
Total factories behind schedule	1388

- Source: The Accord, 2016: 13, 14
- The phrase “behind schedule” means that Corrective Action Plans are being implemented but some timelines have not been met

Table 2: Progress levels in factories behind schedule

% of issues fixed (reported and verified)	Above 75%	50-75%	25-50%	Less than 25%
Number of factories	563	620	161	44
% of factories	40	45	12	3

- Source: The Accord, 2016: 14

Table 3: Progress on improvements arising from initial inspections (information as of October, 2016)

	Corrected	Pending Verifications*	In Progress	Total
Electrical	25074	4055	4986	34115
Fire	16856	4800	11674	33330
Structural	4860	4249	1081	19950

- Source: The Accord, 2016: 10
- The term “corrected” means that the finding has been verified as corrected by the Accord engineers through follow-up verification visits. The phrase “pending verifications” means that the required improvements have been reported as completed but this has not been verified by Accord engineers. Finally, the phrase “in progress” means that remediation of the inspection findings is underway

Table 4: Progress on improvements arising from follow-up inspections (information as of October, 2016)

	Corrected	Pending Verifications	In Progress	Total
Electrical	13013	3095	6772	22880
Fire	2944	1096	3412	7452
Structural	168	198	401	767

- Source: The Accord, 2016: 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Appendix 1: Interview respondents and dates

B; 23, October, 2014	GUF Respondent
S; 10, November, 2014	GUF Respondent
X; 19 December, 2014	Respondent from The Accord
N; 24, February 2015	Global Brand Representative
P; 4, March, 2015	Global Brand Representative
WW; 6, March 2015	Respondent from a Labour Rights Organisation
V; 20, March, 2015	Global Brand Representative
F, 21, March, 2015	BGMEA Respondent
G; 30, March, 2015	Western occupational health and safety professional working with The Accord
SBT; 5, January, 2016	Trade Union Expert